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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मंत्रिमंडल सचिवालय

नई दिल्ली, 20 अक्टूबर, 2003

का०आ० 3101.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मणिपुर सरकार सचिवालय, गृह विभाग की दिनांक 24-7-2003 की अधिसूचना सं. 2/8(20)/2003-एच/2076 द्वारा प्राप्त सहमति से भारतीय दण्ड संहिता की धारा 364-ए/34 के तहत इम्फाल पुलिस स्टेशन, मणिपुर में पंजीकृत पाओना बाजार, इम्फाल के श्री मनोज कुमार सेठी के अपहरण तथा बाद में हत्या के संबंध में एफ.आई.आर. सं. 127(5)2003 के मामले तथा उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संयुक्त प्रयत्नों, दुष्प्रेरणों और षड्यंत्रों तथा उसी संव्यवहार के दौरान किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण मणिपुर राज्य पर करती है।

[सं. 228/69/2003-डो.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

CABINET SECRETARIAT

New Delhi, the 20th October, 2003

S.O. 3101.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consequent of Government of Manipur Secretariat, Home Department, vide Notification No. 2/8(20)/2003-H/2076 dated 24-7-2003, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to whole of the State of Manipur for investigation

of case F.I.R. No. 127/(5) 2003 registered at Imphal Police Station, Manipur u/s 364-A/34 of Indian Penal Code relating to the kidnapping and subsequent killing of Shri Manoj Kumar Sethi of Paona Bazar, Imphal and attempts abetments and conspiracy in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/69/2003-DSPE]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 21 अक्टूबर, 2003

का०आ० 3102.—यतः भारत सरकार, मंत्रिमंडल सचिवालय, नई दिल्ली ने, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के अंतर्गत, उड़ीसा राज्य सरकार की दिनांक 6 जनवरी, 2003 की अधिसूचना सं. सीपी/पीसीएम-3/2001/1220 में विनिर्दिष्ट अपराधों के अन्वेषण के लिए दिनांक 17-4-2003 की अपनी अधिसूचना सं. 228/21/2003-डीएसपीई (i) द्वारा दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों व अधिकारिता का विस्तार किया।

और यतः पूर्व अधिसूचना के अधिक्रमण में, और दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार उड़ीसा राज्य के गृह विभाग की दिनांक 6 जनवरी, 2003 की अधिसूचना सं. सीपी/पीसीएम-3/2001/1220 द्वारा प्राप्त सहमति से, वर्ष 1995 से 2001 की अवधि के दौरान "सम्बलपुर नगर के बाढ़ तटबंध-सठ रिंग रोड-प्रथम चरण-पहुंच II सब रीच-III (आर डी 6 कि.मी. से 7 कि.मी. तक) के निर्माण" के कार्य के पश्चात्तर विवरण के संबंध में भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 2) की धारा 13(2) सपठित धारा 13(1) (डी) और भारतीय दंड संहिता, 1860 (1860 का 45) की धारा 120 बी एवं 420 और किसी अन्य कानून के अधीन दंडनीय अपराधों और उक्त अपराधों में से किसी एक अथवा अधिक से संबंधित अथवा संसक्त आपराधिक षंडयंत्र, प्रयत्न और दुष्प्रेरण तथा उसी संव्यवहार के अनुक्रम में किए गए किसी अन्य अपराध अथवा अपराधों और उन्हीं तथ्यों से उद्भूत किसी अन्य अपराधों अथवा इन्हीं अपराधों में से एक से संबंधित अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण उड़ीसा राज्य पर करती है।

[सं. 228/21/2003-डी.एस.पी.ई. (i)]

शुभा ठाकुर, अवर सचिव

New Delhi, the 21st October, 2003

S.O. 3102.—Whereas the Government of India, Cabinet Secretariat, New Delhi vide Notification No. 228/21/2003-DSPE(i) dated 17-4-2003 extended the powers and jurisdiction of the members of the Delhi Special Police Establishment for investigation of the offences specified in the Notification No. CP/PCM-3/2001/1220 dated 6th January 2003 issued by the State Government of Orissa under Section 6 of the Delhi Special Police Establishment (Act No. 25 of 1946).

And whereas in supersession of the earlier notification and in exercise of the powers conferred by Sub-section (1) of Section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State of Orissa, Home Department accorded vide Notification No. CP/PCM-3/2001/1220 dated 6th January, 2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Orissa for investigation of offences punishable under section 13(2) read with 13(1) (d) of Prevention of Corruption Act, 1988 (Act No. 2 of 1988) and Section 120-B and 420 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and any other law and criminal conspiracy, attempt, abetment in relation to or in connection with one or more of the offences mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts or in connection with one of the offences committed in respect of deviation statement for the work "Construction of Flood Embankment-cum-Ring Road of Sambalpur Town-Ist Phase-Reach-II Sub-Reach-III (from RD 6 K.M. to 7 K.M.)" during the period from 1995 to 2001.

[No. 228/21/2003-DSPE (i)]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 21 अक्टूबर, 2003

का०आ० 3103.—यतः भारत सरकार, मंत्रिमंडल सचिवालय, नई दिल्ली ने, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के अंतर्गत, उड़ीसा राज्य सरकार की दिनांक 6 जनवरी, 2003 की अधिसूचना सं. सीपी/पीसीएम-3/2001/1220 में विनिर्दिष्ट अपराधों के अन्वेषण के लिए दिनांक 17-4-2003 की अपनी अधिसूचना सं. 228/21/2003-डीएसपीई (i) द्वारा दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों व अधिकारिता का विस्तार किया।

और यतः पूर्व अधिसूचना के अधिक्रमण में, और दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार उड़ीसा राज्य के गृह विभाग की दिनांक

6 जनवरी, 2003 की अधिसूचना सं. सीपी/पीसीएम-3/2001/1220 द्वारा प्राप्त सहमति से, वर्ष 1995 से 2001 की अवधि के दौरान "सम्बलपुर नगर के बाढ़ तटबंध-सठ रिंग रोड—प्रथम चरण—पहुंच II सब रीच-III (आर डी 3.5 कि.मी. से 5 कि.मी. तक) के निर्माण" के कार्य के पथांतर विवरण के संबंध में भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 2) की धारा 13(2) सपठित धारा 13(1) (डी) और भारतीय दंड संहिता, 1860 (1860 का 45) की धारा 120 बी एवं 420 और किसी अन्य कानून के अधीन दंडनीय अपराधों और उक्त अपराधों में से किसी एक अथवा अधिक से संबंधित अथवा संसक्त आपराधिक षड्यंत्र, प्रयत्न और दुष्प्रेरण तथा उसी संव्यवहार के अनुक्रम में किए गए किसी अन्य अपराध अथवा अपराधों और उन्हीं तथ्यों से उद्भूत किसी अन्य अपराधों अथवा इन्हीं अपराधों में से एक से संबंधित अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण उड़ीसा राज्य पर करती है।

[सं. 228/21/2003-डी.एस.पी.ई.(ii)]

शुभा ठाकुर, अवर सचिव

New Delhi, the 21st October, 2003

S.O. 3103.—Whereas the Government of India, Cabinet Secretariat, New Delhi vide Notification No. 228/21/2003-DSPE(ii) dated 17-4-2003 extended the powers and jurisdiction of the members of the Delhi Special Police Establishment for investigation of the offences specified in the Notification No. CP/PCM-3/2001/1227 dated 6th January 2003 issued by the State Government of Orissa under Section 6 of the Delhi Special Police Establishment (Act No. 25 of 1946).

And whereas in supersession of the earlier notification and in exercise of the powers conferred by Sub-section (1) of Section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State of Orissa, Home Department accorded vide Notification No. CP/PCM-3/2001/1227 dated 6th January, 2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Orissa for investigation of offences punishable under section 13(2) read with 13(1) (d) of Prevention of Corruption Act, 1988 (Act No. 2 of 1988) and Section 120-B and 420 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and any other law and criminal conspiracy, attempt, abetment in relation to or in connection with one or more of the offences mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts or in connection with one of the offences committed in respect of deviation statement for the work "Construction of Flood Embankment-cum-Ring Road of Sambalpur Town Sub-Reach-No. I of reach II of 1st Phase (RD 3.5 K.M. to 5 K.M.)" during the period from 1995 to 2001.

[No. 228/21/2003-DSPE (ii)]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 21 अक्टूबर, 2003

का०आ० 3104.—यतः भारत सरकार, मंत्रिमंडल सचिवालय, नई दिल्ली ने, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 6 के अंतर्गत, उड़ीसा राज्य सरकार की दिनांक 6 जनवरी, 2003 की अधिसूचना सं. सीपी/पीसीएम-3/2001/1220 में विनिर्दिष्ट अपराधों के अन्वेषण के लिए दिनांक 17-4-2003 की अपनी अधिसूचना सं. 228/21/2003-डीएसपीई (i) द्वारा दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों व अधिकारिता का विस्तार किया।

और यतः पूर्व अधिसूचना के अधिक्रमण में, और दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार उड़ीसा राज्य के गृह विभाग की दिनांक 6 जनवरी, 2003 की अधिसूचना सं. सीपी/पीसीएम 3/2001/1220 द्वारा प्राप्त सहमति से, वर्ष 1995 से 2001 की अवधि के दौरान "सम्बलपुर नगर के बाढ़ तटबंध—सठ रिंग रोड—प्रथम चरण—पहुंच II सब रीच-III (आर डी 5 कि.मी. से 6 कि.मी. तक) के निर्माण" के कार्य के पथांतर विवरण के संबंध में भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 2) की धारा 13(2) सपठित धारा 13(1) (डी) और भारतीय दंड संहिता, 1860 (1860 का 45) की धारा 120 बी एवं 420 और किसी अन्य कानून के अधीन दंडनीय अपराधों और उक्त अपराधों में से किसी एक अथवा अधिक से संबंधित अथवा संसक्त आपराधिक षड्यंत्र, प्रयत्न और दुष्प्रेरण तथा उसी संव्यवहार के अनुक्रम में किए गए किसी अन्य अपराध अथवा अपराधों और उन्हीं तथ्यों से उद्भूत किसी अन्य अपराधों अथवा इन्हीं अपराधों में से एक से संबंधित अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण उड़ीसा राज्य पर करती है।

[सं. 228/21/2003-डी.एस.पी.ई.(iii)]

शुभा ठाकुर, अवर सचिव

New Delhi, the 21st October, 2003

S.O. 3104.—Whereas the Government of India, Cabinet Secretariat, New Delhi vide Notification No. 228/21/2003-DSPE(iii) dated 17-4-2003 extended the powers and jurisdiction of the members of the Delhi Special Police Establishment for

investigation of the offences specified in the Notification No. CP/PCM-3/2001/1233 dated 6th January 2003 issued by the State Government of Orissa under Section 6 of the Delhi Special Police Establishment (Act No. 25 of 1946).

And whereas in supersession of the earlier notification and in exercise of the powers conferred by Sub-section (1) of Section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State of Orissa, Home Department accorded vide Notification No. CP/PCM-3/2001/1233 dated 6th January, 2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Orissa for investigation of offences punishable under section 13(2) read with 13(1) (d) of Prevention of Corruption Act, 1988 (Act No. 2 of 1988) and Section 120-B and 420 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and any other law and criminal conspiracy, attempt, abetment in relation to or in connection with one or more of the offences mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the same facts or in connection with one of the offences committed in respect of deviation statement for the work "Construction of Flood Embankment-cum-Ring Road of Sambalpur Town Ist Phase-Reach-II Sub Reach-II from (RD 5 K.M. to 6 K.M.)" during the period from 1995 to 2001.

[No. 228/21/2003-DSPE (iii)]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 21 अक्टूबर, 2003

का०आ० 3105.—यतः भारत सरकार, मंत्रिमंडल सचिवालय, नई दिल्ली ने, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 6 के अंतर्गत, उड़ीसा राज्य सरकार की दिनांक 6 जनवरी, 2003 की अधिसूचना सं. सीपी/पीसीएम-3/2001/1220 में विनिर्दिष्ट अपराधों के अन्वेषण के लिए दिनांक 17-4-2003 की अपनी अधिसूचना सं. 228/21/2003-डीएसपीई (i) द्वारा दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों व अधिकारिता का विस्तार किया।

और-यतः पूर्व अधिसूचना के अधिक्रमण में, और दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 5 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार उड़ीसा राज्य के गृह विभाग की दिनांक 6 जनवरी, 2003 की अधिसूचना सं. सीपी/पीसीएम-3/2001/1220 द्वारा प्राप्त सहमति से, वर्ष 1996 से 1999 की अवधि के दौरान "भुवनेश्वर में जल संपद भवन के निर्माण" के कार्य के पश्चात्तर विवरण के संबंध में भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 2) की धारा 13(2) सपठित धारा 13(1) (डी) और भारतीय दंड संहिता, 1860 (1860 का 45) की धारा 120 बी एवं 420 और किसी अन्य कानून के अधीन दंडनीय अपराधों और उक्त अपराधों में से किसी एक अथवा अधिक से संबंधित अथवा संसक्त आपराधिक षड्यंत्र, प्रयत्न और दुष्प्रेरण तथा उसी संघ्यवहार के अनुक्रम में किए गए किसी अन्य अपराध अथवा अपराधों और उन्हीं तथ्यों से उद्भूत किसी अन्य अपराधों अथवा इन्हीं अपराधों में से एक से संबंधित अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण उड़ीसा राज्य पर करती है।

[सं. 228/21/2003-डी.एस.पी.ई. (iv)]

शुभा ठाकुर, अवर सचिव

New Delhi, the 21st October, 2003

S.O. 3105.—Whereas the Government of India, Cabinet Secretariat, New Delhi vide Notification No. 228/21/2003-DSPE(ii) dated 17-4-2003 extended the powers and jurisdiction of the members of the Delhi Special Police Establishment for investigation of the offences specified in the Notification No. CP/PCM-3/2001/1239 dated 6th January 2003 issued by the State Government of Orissa under Section 6 of the Delhi Special Police Establishment (Act No. 25 of 1946).

And whereas in supersession of the earlier notification and in exercise of the powers conferred by Sub-section (1) of Section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State of Orissa, Home Department accorded vide Notification No. CP/PCM-3/2001/1227 dated 6th January, 2003, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Orissa for investigation of offences punishable under section 13(2) read with 13(1) (d) of Prevention of Corruption Act, 1988 (Act No. 2 of 1988) and Section 120-B and 420 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and any other law and criminal conspiracy, attempt, abetment in relation to or in connection with one or more of the offences mentioned above and any other offence and offences committed in the course of the same transaction or arising out of the

same facts or in connection with one of the offences committed in respect of deviation statement for the work "Construction of Jalasampad Bhawan at Bhubaneswar" during the period from 1996 to 1999.

[No. 228/21/2003-DSPE (iv)]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 23 अक्टूबर, 2003

का०आ० 3106.—केंद्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अधिवक्ताओं को विचारण न्यायालयों में निदेशक, केंद्रीय अन्वेषण ब्यूरो द्वारा उन्हें सौंपे गए दिल्ली विशेष पुलिस स्थापना (के.अ.ब्यूरो) द्वारा आंध्र प्रदेश राज्य में संस्थित मामलों के अभियोजन तथा विधि द्वारा स्थापित पुनरीक्षण अथवा अपील न्यायालयों में इन मामलों से उद्भूत अपीलों/पुनरीक्षणों अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है :—

1. श्रीमती डी. वी. पद्मा प्रिया
2. श्री सी. सीताराम मूर्ति
3. श्री टी. सत्यनारायण

[सं. 225/40/2002-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 23rd October, 2003

S.O. 3106.—In exercise of the powers conferred by Sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints the following Advocates as Special Public Prosecutors for conducting the prosecution of cases instituted by the Delhi Police Establishment (CBI) in the State of Andhra Pradesh as entrusted to them by the Director, Central Bureau of Investigation in the trial Courts and appeals / revisions or other matter arising out of these cases in revisional or appellate Courts established by law.

1. Smt. D.V. Padma Priya
2. Shri C. Sitarama Murthy
3. Sh. T. Satyanarayana

[No. 225/40/2002-DSPE]

SHUBHA THAKUR, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

(स्वापक नियंत्रण प्रभाग)

नई दिल्ली, 26 सितम्बर, 2003

का०आ० 3107.—स्वापक औषधि एवं मनः प्रभावी पदार्थ अधिनियम, 1985 (1985 का 61) की धारा 36 ग के साथ पठित संहिता 1973 (1974 का 2) की धारा 24 की उप-धारा (2) तथा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा स्वापक औषधि एवं मनः प्रभावी पदार्थ अधिनियम, 1985 के तहत श्री पी. एन. प्रकाश अधिवक्ता को दक्षिणी अंचल के सभी मुख्य न्यायालयों अर्थात् कर्नाटक, आंध्र प्रदेश और केरल में केन्द्रीय सरकार की ओर से स्वापक नियंत्रण ब्यूरो के मामलों की पैरवी करने के प्रयोजनार्थ 11-9-2004 तक (जो कि मद्रास उच्च न्यायालय में उनकी विशेष लोक अभियन्ता के नाते विद्यमान अवधि है) के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

बशर्ते श्री पी.एन. प्रकाश अभियोजक उक्त अवधि के दौरान 11-9-2004 तक स्वापक औषधि एवं मनः प्रभावी पदार्थ अधिनियम, 1985 के अंतर्गत केन्द्र अथवा राज्य सरकार द्वारा दोषी ठहराए गए किसी अभियुक्त की ओर से बचाव पक्ष के वकील के रूप में उपस्थित नहीं होंगे।

[फा. सं. IV-4/2001-एन.सी.डी.(विधि)]

बी. एल. चौधरी, उप विधि सलाहकार

अनुबंध

श्री पी. एन. प्रकाश अधिवक्ता को विशेष लोक अभियोजक नाते निम्न फीस देय होगी:—

1. नियुक्त व्यक्ति को कोई फीस/मासिक पारिश्रमिक अदा नहीं किया जाएगा।

2. नियुक्त व्यक्ति नीचे दर्शायी गई फीस का पात्र होगा:—

(क) शिकायत का मसौदा तैयार करने के लिए	500/- रु. प्रति मामला
(ख) प्रभावी सुनवाई के लिए	1000/-रु. प्रतिदिन प्रति मामला
(ग) अप्रभावी सुनवाई के लिए	500/-रु. प्रति दिन जो एक मामले में तीन ऐसी सुनवाइयों से अधिक न हो।
(घ) परामर्श/प्रभार	150/-रु. प्रति सम्मेलन

MINISTRY OF FINANCE

(Department of Revenue)

(NARCOTICS CONTROL DIVISION)

New Delhi, the 26th September, 2003

S.O. 3107.—In exercise of the powers conferred by Sub-section (2) and (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), read with section 36C of the Narcotic Drug and Psychotropic Substances Act, 1985, (61 of 1985), the Central Government hereby appoints Shri P. N. Prakash, Advocate as Special Public Prosecutor for the purpose of conducting cases of Narcotics Control Bureau on behalf of the Central Government under the Narcotics Drugs and Psychotropic Substances Act, 1985, in all High Courts of South Zone viz Karnataka, Andhra Pradesh and Kerala for a period upto 11-09-2004 (i.e. his existing tenure as SPP for Madras High Court) on the terms and conditions as mentioned in the annexure to this Notification.

Provided that Shri P. N. Prakash, Advocate shall not appear as a Defence Counsel on behalf of any accused booked by the central or state Governments, for an offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 during the said period i.e. upto 11-09-2004.

[F. No. IV/4/2001-NCD(Legal)]

B. L. CHOUDHARY, Dy. Legal Adviser

ANNEXURE

Fees payable to Shri P. N. Prakash, Advocate as Special Public Prosecutor will be as under :—

1. No retainer/monthly remuneration will be paid to the appointee.

2. The appointee shall be eligible for the fees as stated below :—

- | | |
|----------------------------------|--|
| (i) Drafting Complaint | Rs. 500/-per case |
| (ii) For effective hearing | Rs. 1,000/-per day per case |
| (iii) For non-effective hearing | Rs. 500/- per case (Subject to maximum of three such hearings) |
| (iv) Consultation/Conference Fee | Rs. 150/- per Conference. |

केन्द्रीय उत्पाद आयुक्त का कार्यालय

राजकोट, 8 अक्टूबर, 2003

क्रमांक 2/2003 सीमा शुल्क (एन.टी.)

का०आ० 3108.—वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली द्वारा जारी की गई अधिसूचना क्र. 33/94-सीमा शुल्क (एन.टी.) दि. 1-7-94 द्वारा सीमा शुल्क अधिनियम, 1962 की धारा 9 के अधीन दिए गए अधिकार का प्रयोग करते हुए श्री. जी.आई.डी.सी. विस्तार, भुज (कच्छ) तालुका कच्छ, (गुजरात) को सीमा शुल्क अधिनियम, 1962 की धारा 9 के अधीन शत-प्रतिशत निर्यातान्मुख इकाई (100% ई.ओ.यू.) के स्थापन के मर्यादित हेतु, माल गोदाम स्थल घोषित करता है।

[फा. सं. VIII/40-08/सीमा शुल्क (तकनीकी)/2003]

डा. डी.डी. ऋषि, आयुक्त

CENTRAL EXCISE COMMISSIONERATE

Rajkot, the 8th October, 2003

No. 2/2003-Cus (NT)

S.O. 3108.—In exercise of the powers of Section 9 of the Customs Act, 1962 delegated to me vide Ministry of Finance, Department of Revenue, New Delhi's Notification No. 33/94-Cus(NT) dated 1-7-94, I hereby declare GIDC Area, Bhuj (Kutch), Dist. Kutch (Gujarat) as a Warehousing Station under Section 9 of the Customs Act, 1962 for the limited purpose of setting up 100% Export Oriented Units (EOUs) only.

[F. No. VIII/40-08/CUS-T/2003]

Dr. D. D. RISHI, Commissioner

कार्यालय : आयुक्त, केन्द्रीय उत्पाद शुल्क आयुक्तालय : जयपुर-प्रथम

जयपुर, 15 अक्टूबर, 2003

सं. 02-सीमा शुल्क (एनटी) 2003

(सीमा शुल्क)

का०आ० 3109.—सीमा शुल्क अधिनियम, 1962 की धारा 152 के खण्ड (ए) के तहत भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की अधिसूचना संख्या 33/94 सीमा शुल्क (एनटी) दिनांक प्रथम जुलाई, 1994 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मैं, प्रवीण महाजन, आयुक्त, केन्द्रीय उत्पाद शुल्क, जयपुर-प्रथम एतद्वारा, शत-प्रतिशत ई.ओ.यू. स्थापित करने के उद्देश्य से राजस्थान राज्य के जयपुर जिले में स्थित ग्राम चिरोटा, पोस्ट अजयराजपुरा, रीको औद्योगिक क्षेत्र के पास, बगरू विस्तार, बगरू, जयपुर को भण्डारण स्टेशन (वेयर हाउसिंग स्टेशन) घोषित करती हूँ।

[फा. सं.पंचम (16)ईओयू/सीडब्ल्यूसी/20/2003]

प्रवीण महाजन, आयुक्त

OFFICE OF THE COMMISSIONER**CENTRAL EXCISE, JAIPUR-I**

Jaipur, the 15th October, 2003

No. 02-CUS(NT) 2003

(CUSTOMS)

S.O. 3109.—In exercise of the powers conferred by Notification No. 33/94-Customs (NT), dated the 1st July, 1994, by the Government of India, Ministry of Finance, Department of Revenue, New Delhi issued under clause (a) of Section 152 of Customs Act, 1962. I, Praveen Mahajan, Commissioner of Central Excise, Jaipur-I, hereby declare, Village Chirota, Post Ajayrajpur, Near RIICO Indl. Area, Bagru Extension, Bagru, District Jaipur, in the State of Rajasthan to be warehousing station under Section 9 the Customs Act, 1962 for the purpose of setting 100% E.O.U.

[C. No. V(16)EOU/CWC/20/2003]

PRAVEEN MAHAJAN, Commissioner

आदेश

नई दिल्ली, 20 अक्टूबर, 2003

स्टाम्प

का०आ० 3110.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा अपोलो हास्पिटल, चेन्नई को मात्र सात लाख पचास हजार रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त हास्पिटल द्वारा जारी किए जाने वाले मात्र दस करोड़ रुपये के समग्र मूल्य के प्रत्येक दस-दस लाख रुपये के 1210226 से 1210325 तक की विशिष्ट संख्या वाले 7.27 प्रतिशत के सुरक्षित विमोच्य अपरिवर्तनीय ऋण पत्रों पर स्टाम्प शुल्क के कारण प्रभाव्य है।

[सं. 35/2003-स्टाम्प/फा. सं. 33/34/2003-बि.क.]

आर. जी. छाबड़ा, उप-सचिव

ORDER

New Delhi, the 20th October, 2003

STAMPS

S.O. 3110.—In exercise of the powers conferred by clause (b) of sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Apollo Hospital, Chennai to pay consolidated stamp duty of rupees seven lakh fifty thousand only chargeable on account of the stamp duty on 7.27% secured redeemable non-convertible Debentures bearing distinctive numbers from 1210226 to 1210325 of rupees ten lakh each aggregating to rupees ten crore only, to be issued by the said Hospital.

[No. 35/2003-STAMP/F. No. 33/34/2003-ST]

R. G. CHHABRA, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 15 अक्टूबर, 2003

का०आ० 3111.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2004 तक जिला सहकारी केन्द्रीय बैंक मर्यादित, जगदलपुर, छत्तीसगढ़ राज्य पर लागू नहीं होंगे।

[फा. सं. 1(31)/98-ए.सी.]

मंगल मराण्डी, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 15th October, 2003

S.O. 3111.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on recommendation of the Reserve Bank of India declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to Jila Sahakari Kendriya Bank Maryadit, Jagdalpur, Chhatisgarh State, from the date of publication of this notification in the Official Gazette till 31st March, 2004.

[F. No. 1(31)/98-AC]

MANGAL MARNDI, Under Secy.

नई दिल्ली, 15 अक्टूबर, 2003

का०आ० 3112.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2004 तक सिवगंगई जिला मध्यवर्ती सहकारी बैंक, सिवगंगई, तमिलनाडु राज्य पर लागू नहीं होंगे।

[फा. सं. 1(17)/2000-ए.सी.]

मंगल मराण्डी, अवर सचिव

New Delhi, the 15th October, 2003

S.O. 3112.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on recommendation of the Reserve Bank of India declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to The Sivagangai District Central Cooperative Bank Limited, Sivagangai, Tamil Nadu State, from the date of publication of this notification in the Official Gazette till 31st March, 2004.

[No. 1(17)/2000-AC]

MANGAL MARNDI, Under Secy.

नई दिल्ली, 15 अक्टूबर, 2003

का०आ० 3113.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2004 तक औरंगाबाद जिला मध्यवर्ती सहकारी बैंक लि., औरंगाबाद महाराष्ट्र राज्य पर लागू नहीं होंगे।

[फा. सं. 1(28)/2003-ए.सी.]

मंगल मराण्डी, अवर सचिव

New Delhi, the 15th October, 2003

S.O. 3113.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on recommendation of the Reserve Bank of India declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to The Aurangabad District Central Cooperative Bank Limited, Aurangabad, Maharashtra State, from the date of publication of this notification in the Official Gazette till 31st March, 2004.

[F. No.1(28)/2003-AC]

MANGAL MARNDI, Under Secy.

नई दिल्ली, 15 अक्टूबर, 2003

का०आ० 3114.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबंध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2004 तक परभनी जिला मध्यवर्ती सहकारी बैंक लि., परभनी, महाराष्ट्र राज्य पर लागू नहीं होंगे।

[फा. सं. 1(27)/2001-ए.सी.]

मंगल मराण्डी, अवर सचिव

New Delhi, the 15th October, 2003

S.O. 3114.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on recommendation of the Reserve Bank of India declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to The Parbhani District Central Cooperative Bank Limited, Parbhani, Maharashtra State, from the date of publication of this notification in the Official Gazette till 31st March, 2004.

[F. No.1(27)/2001-AC]

MANGAL MARNDI, Under Secy.

नई दिल्ली, 20 अक्टूबर, 2003

का०आ०. 3115.—सरकारी परिसर अधिनियम (अनधिकृत दखलकारों की बेदखली) 1971 की धारा 8 में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा नीचे दी गयी सारणी के कालम (1) में उल्लिखित अधिकारी को सरकार के राजपत्रित अधिकारी के समकक्ष बैंक के अधिकारी होने के कारण उक्त अधिनियम के प्रयोजन हेतु सम्पदा अधिकारी नियुक्त करती है, जो सरकारी परिसर के लिए अपने अधिकार क्षेत्र की स्थानीय सीमाओं में रहते हुए जैसा कि सारणी के कालम (2) में निर्दिष्ट है, उक्त अधिनियम के प्रयोजनार्थ सम्पदा अधिकारी को सौंपी गई शक्तियों का प्रयोग करेंगे और कर्तव्य निष्पादित करेंगे।

सारणी

अधिकारी का पदनाम	सरकारी परिसर की श्रेणियाँ और अधिकार क्षेत्र की स्थानीय सीमाएँ
उप महाप्रबंधक, भारतीय रिजर्व बैंक नोट मुद्रण प्राइवेट लि० कारपोरेट कार्यालय, बंगलोर, कर्नाटक	कर्नाटक राज्य के बंगलोर में स्थित भारतीय रिजर्व बैंक नोट मुद्रण प्राइवेट लिमिटेड से संबंधित अथवा उनके द्वारा अथवा उनकी ओर से पट्टे पर ली गयी भूमि अथवा परिसर

[सं. 3/60/1998-करेंसी-II]

पी. के. शर्मा, अवर सचिव

New Delhi, the 20th October, 2003

S.O. 3115.—In exercise of the powers conferred by Section 8 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being an officer equivalent in rank to Gazetted Officer of the Government, to be Estate Officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the Table.

TABLE

Designation of the Officer	Categories of public premises and local limits of jurisdiction
1	2
Deputy General Manager, Bhartiya Reserve Bank Note Mudran Pvt. Limited, corporate Office, Bangalore, Karnataka.	Land and premises belonging to or taken on lease by or on behalf of Bhartiya Reserve Bank Note Mudran Pvt. Limited at Bangalore, in the State of Karnataka.

[No. 3/60/1998-Cy. II]

P. K. SHARMA, Under Secy.

(बीमा प्रभाग)

नई दिल्ली, 27 अक्टूबर, 2003

का०आ० 3116.—केन्द्रीय सरकार बीमा विनियामक एवं विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री मैथ्यू वर्गीज़ को उक्त प्राधिकरण के पूर्णकालिक सदस्य के रूप में पांच वर्ष के लिए अथवा 62 वर्ष की आयु प्राप्त होने तक अथवा अगले आदेश तक जो भी पहले हो, एतद्वारा नियुक्त करती है।

[फा.सं.-11(3)/2003-बीमा-IV]

आर० रंगनाथ, निदेशक

(Insurance Division)

New Delhi, the 27th October, 2003

S.O. 3116.—In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999) the Central Government hereby appoints Shri Mathew Varghese as Whole-time Member of the said Authority from the date he joins the post for a period of five years or till he attains the age of 62 years or until further orders, whichever is earlier.

[F.No. 11(3)/2003-Ins.IV]

R. RENGANATH, Director

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 22 अक्टूबर, 2003

का०आ० 3117.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

भारत संचार निगम लिमिटेड (भारत सरकार का उद्यम) निगम कार्यालय, 102-बी, स्टेट्समैन हाउस, 148, बाराखम्भा रोड, नई दिल्ली-110001

[सं.ई.-11016/1/2002-रा.भा.]

हरीश चन्द्र जयाल, संयुक्त सचिव

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

(Department of Telecommunications)

(Official Language Section)

New Delhi, the 22nd October, 2003

S.O. 3117.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), rules, 1976 (as amended-1987), the Central Government hereby notifies the following Office under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications whereof more than 80% of staff have acquired working knowledge of Hindi.

Bharat Sanchar Nigam Limited (A Govt. of India Enterprises) Corporate Office, 102 B, Statesment House, 148 Barakhambha Road, New Delhi - 110001

[No. E-11016/1/2002-(O.L.)]
HARISH CHANDRA JAYAL, Jt. Secy.

(डाक विभाग)

नई दिल्ली, 20 अक्टूबर, 2003

का०आ० 3118.—राजभाषा नियम, (संघ के शासकीय प्रयोजनों के लिए प्रयोग), 1976 के नियम-10 के उप नियम (4) के अनुसरण में केंद्र सरकार डाक विभाग के निम्नलिखित अधीनस्थ कार्यालयों को, जिसके 80 प्रतिशत कर्मचारियों (ग्रुप घ कर्मचारियों को छोड़कर) ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :

1. अधीक्षक डाकघर, सोलन मण्डल सपरून	-	173212	26. उप डाकघर, काला अम्ब	-	173030
2. मुख्य डाकघर, सोलन	-	173212	27. उप डाकघर, कौला वाला भूड़	-	173026
3. मुख्य डाकघर, नाहन	-	173011	28. उप डाकघर, ममलीग	-	173227
4. उप डाकघर, अर्की	-	173208	29. उप डाकघर, माजरा	-	173021
5. उप डाकघर, बददी	-	173205	30. उप डाकघर, नालागढ़	-	174101
6. उप डाकघर, बरोटीवाला	-	174203	31. उप डाकघर, नौणी	-	173230
7. उप डाकघर, चायल	-	173217	32. उप डाकघर, नौहरा	-	173104
8. उप डाकघर, चम्बाघाट	-	173213	33. उप डाकघर, ओच्छघाट	-	173223
9. उप डाकघर, कोर्ट रोड़, नाहन	-	173001	34. उप डाकघर, परवाणु	-	173220
10. उप डाकघर, डगशाई	-	173210	35. उप डाकघर, पट्टा	-	173233
11. उप डाकघर, दाड़ला	-	171102	36. उप डाकघर, पार्वटा साहिब	-	173025
12. उप डाकघर, धर्मपुर	-	173209	37. उप डाकघर, राजगढ़ रोड़ सोलन	-	173212
13. उप डाकघर, दिग्गल	-	173218	38. उप डाकघर, रामशहर	-	174102
14. उप डाकघर, डुमैहर	-	173221	39. उप डाकघर, राजबन	-	173028
15. उप डाकघर, ददाहू	-	173022	40. उप डाकघर, राजगढ़	-	173101
16. उप डाकघर, गढ़खल	-	173201	41. उप डाकघर, सनावर	-	173202
17. उप डाकघर, गिरीनगर	-	173220	42. उप डाकघर, सपरून	-	173217
18. उप डाकघर, जुब्बड़	-	173225	43. उप डाकघर, सोलन बरूरी	-	173214
19. उप डाकघर, कण्डाघाट	-	173215	44. उप डाकघर, सुबाथू	-	173206
20. उप डाकघर, कसौली	-	173204	45. उप डाकघर, सैक्टर-2 परवाणु	-	173220
21. उप डाकघर, कसौली, एम० टी०	-	173204	46. उप डाकघर, संगड़ाह	-	173023
22. उप डाकघर, कसौली, आई० आई०	-	173204	47. उप डाकघर, सतौन	-	173029
23. उप डाकघर, कुम्माहर हट्टी	-	173229	48. उप डाकघर, सराहां	-	173024
24. उप डाकघर, कुनिहार	-	173207	49. उप डाकघर, शिलाई	-	173027
25. उप डाकघर, कच्चा टैंक नाहन	-	173001			

[सं. 11017/2/2003-रा. भा.]

डा० पुष्पलता सिंह, निदेशक (राजभाषा)

(Department of Posts)

New Delhi, the 20th October, 2003

S.O. 3118.—In pursuance of Rule 10(4) of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following subordinate offices of the Department of Posts

where 80 per cent staff has acquired the working knowledge of Hindi :

1. Supdt. of Post Offices Solan Division Saproon	-	173211	25. Sub Post Office, Kacha Tank, Nahan	-	173001
2. Head Post Office, Solan	-	173212	26. Sub Post Office, Kala Amb	-	173030
3. Head Post Office, Nahan	-	173001	27. Sub Post Office, Kaulawala Bhood	-	173026
4. Sub Post Office, Arki	-	173208	28. Sub Post Office, Mamligh	-	173227
5. Sub Post Office, Baddi	-	173205	29. Sub Post Office, Majra	-	173021
6. Sub Post Office, Brotiwala	-	174103	30. Sub Post Office, Nalagarh	-	174101
7. Sub Post Office, Chail	-	173217	31. Sub Post Office, Nauni	-	173220
8. Sub Post Office, Chambaghat	-	173213	32. Sub Post Office, Nohra	-	173104
9. Sub Post Office, Court Road, Nahan	-	173001	33. Sub Post Office, Oachghat	-	173223
10. Sub Post Office, Dagshai	-	173210	34. Sub Post Office, Parwanoo	-	173220
11. Sub Post Office, Darla	-	171102	35. Sub Post Office, Patta	-	173233
12. Sub Post Office, Dharampur	-	173209	36. Sub Post Office, Paonta Sahib	-	173025
13. Sub Post Office, Diggai	-	173218	37. Sub Post Office, Rajgarh Road Solan	-	173212
14. Sub Post Office, Domehar	-	173221	38. Sub Post Office, Ramshehar	-	174102
15. Sub Post Office, Dadahu	-	173022	39. Sub Post Office, Rajban	-	173028
16. Sub Post Office, Garkhal	-	173201	40. Sub Post Office, Rajgarh	-	173101
17. Sub Post Office, Girinagar	-	173020	41. Sub Post Office, Sanawar	-	173202
18. Sub Post Office, Jubbar	-	173225	42. Sub Post Office, Saproon	-	173211
19. Sub Post Office, Kandaghat	-	173215	43. Sub Post Office, Solan Brewery	-	173214
20. Sub Post Office, Kasauli	-	173204	44. Sub Post Office, Subathu	-	173206
21. Sub Post Office, Kausauli MT	-	173204	45. Sub Post Office, Sector-2, Parwanoo	-	173220
22. Sub Post Office, Kasauli RI	-	173204	46. Sub Post Office, Sangrah	-	173023
23. Sub Post Office, Kumarhatti	-	173229	47. Sub Post Office, Sataun	-	173029
24. Sub Post Office, Kunihar	-	173207	48. Sub Post Office, Sarahan	-	173024
			49. Sub Post Office, Shillai	-	173027

[No. 11017/2/2003-O.L.]

Dr. PUSHPLATA SINGH, Director (OL)

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 22 अक्टूबर, 2003

का०आ० 3119.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में दूरदर्शन महानिदेशालय (सूचना और प्रसारण मंत्रालय) के निम्नलिखित अधीनस्थ कार्यालयों, जिनके 80% से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

1. दूरदर्शन अनुरक्षण केन्द्र, बीकानेर
2. दूरदर्शन अल्प शक्ति प्रेषित्र, बीकानेर
3. दूरदर्शन अल्प शक्ति प्रेषित्र, नोखा
4. दूरदर्शन अल्प शक्ति प्रेषित्र, रतनगढ़
5. दूरदर्शन अल्प शक्ति प्रेषित्र, सरदार शहर
6. दूरदर्शन अल्प शक्ति प्रेषित्र, सीकर
7. दूरदर्शन अल्प शक्ति प्रेषित्र, श्रीङ्गरगढ़
8. दूरदर्शन अल्प शक्ति प्रेषित्र, सुजानगढ़
9. दूरदर्शन अल्प शक्ति प्रेषित्र, भडौच
10. दूरदर्शन केन्द्र, जगदलपुर

[संख्या ई-11017/4/2002-हिंदी]
समय सिंह कटारिया, निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 22nd October, 2003

S. O. 3119.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (use for Official Purposes of the Union) Rule, 1976, the Central Government hereby notifies the following subordinate offices of DG : Doordarshan (Ministry of Information and Broadcasting), more than 80 % of the staff whereof have acquired the working knowledge of Hindi :—

1. Doordarshan Maintenance Center, Bikaner.
2. Doordarshan Low Power Transmitter, Bikaner.
3. Doordarshan Low Power Transmitter, Nokha.
4. Doordarshan Low Power Transmitter, Ratangarh.
5. Doordarshan Low Power Transmitter, Sardarshahar.
6. Doordarshan Low Power Transmitter, Sikar.
7. Doordarshan Low Power Transmitter, Sri Dungargarh.
8. Doordarshan Low Power Transmitter, Sujangarh.
9. Doordarshan Maintenance Centre, Bharouch.
10. Doordarshan Maintenance Centre, Jagldalpur.

[File No.E-11017/4/2002-Hindi]

S. S. KATARIA, Director (O. L.)

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 26 फरवरी, 2003

का. आ. 3120.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे दी गई सारणी के स्तंभ (1) में उल्लिखित अधिकारियों को, जो सरकार के राजपत्रित अधिकारी हैं, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तंभ (2) की तत्स्थानी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों के प्रवर्गों की बाबत उनकी अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग और अधिरोपित कर्तव्यों का पालन करेंगे.

सारणी

अधिकारी का पदनाम	सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं
(1)	(2)
नगर इंजीनियर, अनुसंधान अभिकल्प और मानक संगठन, मानक नगर, लखनऊ	महानिदेशक, अनुसंधान अभिकल्प और मानक संगठन, मानक नगर, लखनऊ के प्रशासनिक नियंत्रणाधीन स्थान

[फा० सं. 96/एलएमएल/14/90]

आर० आर० जारूहार, सचिव, रेलवे बोर्ड

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 26th February, 2003

S. O. 3120.—In exercise of the Powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) the Central Government hereby appoints the Officers mentioned in column (1) of the Table below, being Gazetted Officers of the Government, to be estate officers for the purpose of the said Act, who shall

exercise the powers conferred and perform the duties imposed on the estate officers by or under the said Act within the local limits of their jurisdiction in respect of the categories of public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Designation of the officer	Categories of Public Premises and local limits of jurisdiction
(1)	(2)
Town Engineer, Research Designs and Standards Organisation, Manak Nagar, Lucknow	Premises under the administrative control of the Director General, Research Designs and Standards Organisation, Lucknow.

[File No. 96/LML/14/90]

R.R. JARUHAR, Secy. Railway Board

कोयला मंत्रालय

नई दिल्ली, 22 अक्टूबर, 2003

का. आ. 3121.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में कोयला मंत्रालय के अधीन साउथ ईस्टर्न कोलफील्ड्स लि०, बिलासपुर के निम्नलिखित क्षेत्रीय कार्यालयों को, जिनके 80% से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:—

1. क्षेत्रीय मुख्यालय, कुसमुण्डा क्षेत्र
2. क्षेत्रीय मुख्यालय, हसदेव क्षेत्र
3. क्षेत्रीय मुख्यालय, जमुना कोतमा क्षेत्र
4. क्षेत्रीय मुख्यालय, सोहागपुर क्षेत्र

[सं.ई.-12019/1/99-हिन्दी]

गार्गी मुखर्जी, निदेशक

MINISTRY OF COAL

New Delhi, the 22nd October, 2003

S. O. 3121.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (use for Official Purposes of the Union) Rules, 1976 the Central Government hereby notifies the following Regional Offices of South Eastern Coalfields Ltd., Bilaspur under the Ministry of Coal, whereof more than 80 % staff have acquired working knowledge of Hindi :—

1. Regional Headquarter, Kusmunda Region.
2. Regional Headquarter, Hasdev Region.
3. Regional Headquarter, Jamuna-Kotama Region.
4. Regional Headquarter, Sohagpur Region.

[No. E-12019/1/99-Hindi]

GARGI MUKHERJEE, Director

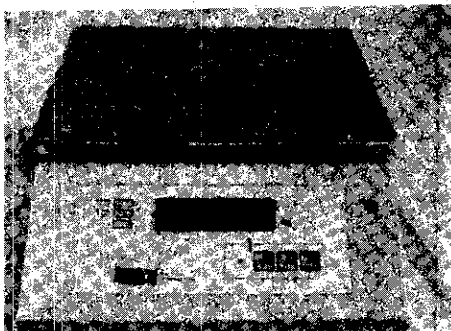
उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 24 अक्टूबर, 2003

का.आ. 3122.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सेन-टेक सिस्टम, 150, शनिवार पेठ, न्यायालय के सामने, कराद, जिला सतारा-415110, महाराष्ट्र द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले "एम जे डब्ल्यू" श्रृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "नेशनल" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन विह्न आई एन डी/09/2003/230 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;



उक्त मॉडल विकृतमापी टाइप भार सेल आधारित उच्च यथार्थता वर्ग (यथार्थता वर्ग II) अस्वचालित अंकक सूचन सहित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्राम और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 2 ग्रा. है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सीलबन्दी : स्टैम्पिंग प्लेट को सील बन्द करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द की जाती है।

और, केंद्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उस सिद्धान्त डिजाइन शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिस से अनुमोदित मॉडल का विनिर्माण किया गया है। उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्राम तक "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन माप मान अन्तराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान, अन्तराल (एन) की संख्या सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 या 5×10^6 के हैं जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(76)/2002]

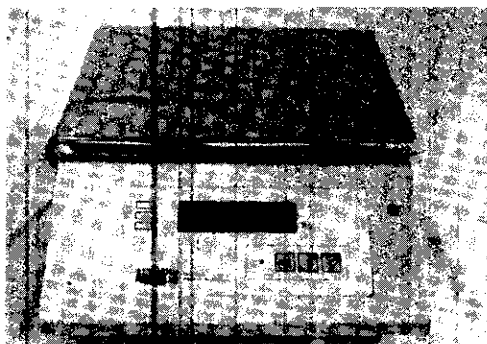
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)**

New Delhi, the 24th October, 2003

S.O. 3122.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of non-automatic, weighing instrument (table top type) with digital indication (herein referred to as the Model) belonging to high accuracy class (accuracy class-II) and "SJW" series with brand name "NATIONAL", manufactured by M/s. San-Tech Systems, 150, Shaniwar Peth, Opp. Court, Karad, Dist. Satara-415110, Maharashtra and which is assigned the approval mark IND/09/2003/230;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (table top type) with digital indication of maximum capacity 30 kg, minimum capacity 100 g, and belonging to high accuracy class (accuracy class-II). The value of verification scale interval 'e' is 2g. The display unit is of light emitting diode type. The instruments operates on 230 V, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing is done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make accuracy and performance of same series with maximum capacity upto 50 kg. and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg. and with the number of verification scale interval (n) in the range 5000 to 50,000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved model have been manufactured.

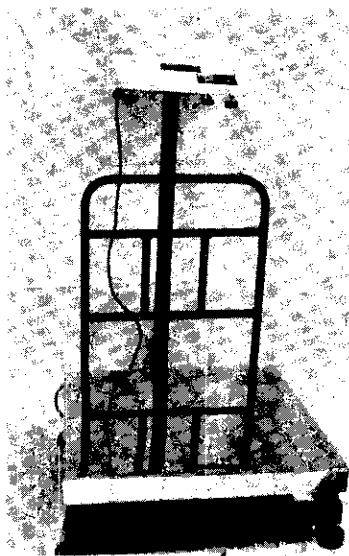
[F. No. WM-21(76)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का. आ. 3123.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सेन-टेक सिस्टम, 150, शनिवार पेठ, न्यायालय के सामने, कराद, जिला सतारा-415110, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एस पी टी" श्रृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "नेशनल" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/231 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



उक्त मॉडल विकृतमापी टाइप भार सेल आधारित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) अस्वचालित अंकक सूचन सहित (प्लेट फार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 100 कि. ग्राम और न्यूनतम क्षमता 200 ग्रा. है। स्थापन मापमान अन्तराल (ई) का मान 10 ग्रा. है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सीलबन्दी : स्टाम्पिंग प्लेट को सील बन्द करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द की जाती है।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उस सिद्धान्त डिजाइन शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिस से अनुमोदित मॉडल का विनिर्माण किया गया है उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे और 10 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में स्थापन मान अन्तराल (एन) की संख्या सहित 50 कि. ग्रा. से अधिक 300 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^0 , 2×10^0 या 5×10^0 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

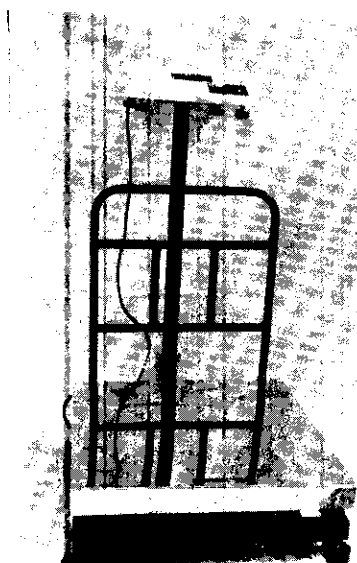
[फा० सं० डब्ल्यू० एम०-21(76)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S.O. 3123.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of non-automatic weighing instrument (platform type) with digital indication (herein referred to as the model), belonging to medium accuracy class (accuracy class-III) and "SPT" series with brand name "NATIONAL", manufactured by M/s. San-Tech Systems, 150, Shaniwar Peth, Opp. Court, Karad, Dist. Satara-415110, Maharashtra and which is assigned the approval mark IND/09/2003/231;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (platform type) with digital indication of maximum capacity 100 kg, minimum capacity 200g., and belonging to high accuracy class (accuracy class-III). The value of verification scale interval 'e' is 10g. The display unit is of light emitting diode type. The instrument operates on 230 V, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing is done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make accuracy and performance of same series with maximum capacity above 50kg. and upto 300kg. and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 10g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved model have been manufactured.

[F.No. WM-21(76)/2002]

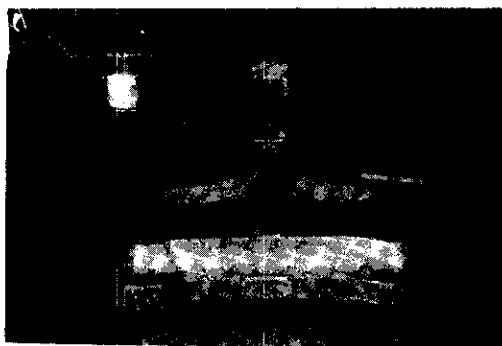
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का०आ० 3124.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स राज इन्डस्ट्रीज, 386/1, तान सिंह नगर, मिलीटरी रोड, आनन्द पर्वत, करोल बाग, नई दिल्ली-110005 द्वारा विनिर्मित काउंटर मशीन के मॉडल का, जिसके ब्रांड का नाम और सीरिज "डायमण्ड" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/458 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक काउंटर मशीन है। इसकी अधिकतम क्षमता 10 कि.ग्रा. है।



और, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन वाले ऐसे तोलन उपकरण भी होंगे जिनकी अधिकतम क्षमता 500 ग्राम से 50 कि.ग्राम की रेंज में है और जिनका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है।

[फा. सं. डब्ल्यू. एम.-21(12)/2003]

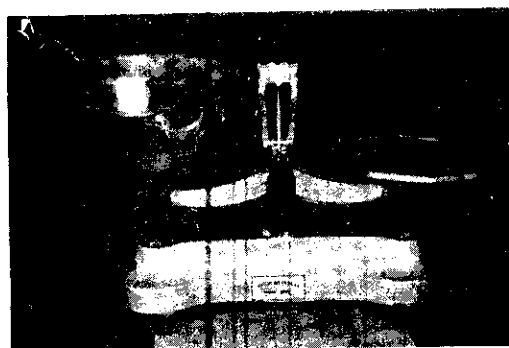
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S.O. 3124.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of Counter machine of 'Diamond' series with brand name "DIAMOND" (herein referred to as the Model), manufactured by M/s. Raj Industries, 386/1, Tahnsingh Nagar, Military Road, Anand Parbat, Karol Bagh, New Delhi-110005 and which is assigned the approval mark IND/09/2003/458;

The said Model (see the figure below) is a counter machine (Mechanical) with a maximum capacity of 10 kg.



Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instruments of similar make accuracy and performance of same series with maximum capacity from 500g. to 50kg. manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(12)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

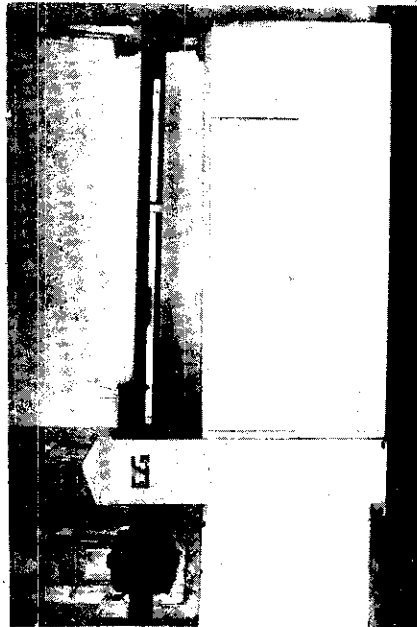
नई दिल्ली, 24 अक्टूबर, 2003

का०आ० 3125.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स डोडिया वेविंग टेक्नालोजी, 54, जी आई डी सी मोती पुरा, हिम्मत नगर, 383001 गुजरात द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "ऐरो" श्रृंखला के अस्वचालित, इलेक्ट्रॉनिक, सदृश सूचक तोलन उपकरण (वे ब्रिज स्टील यार्ड प्रकार) के मॉडल का, जिसके ब्रांड का नाम "ऐरो" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/444 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।

उक्त मॉडल एक यांत्रिक लीवर आधारित सदृश सूचक मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वे ब्रिज स्टील यार्ड प्रकार का तोलन उपकरण है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 100 कि. ग्राम है। सत्यापन मापमान अन्तराल (ई) का नाम 5 कि. ग्राम है।

सीलबन्दी : स्टांपिंग प्लेट को सील करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्दी की जाएगी।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उस सिद्धान्त डिजाइन शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिससे अनुमोदित मॉडल का विनिर्माण किया गया है। उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे और 5 कि.ग्राम या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) सहित 5 टन से 50 टन तक की अधिकतम क्षमता वाले और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 के हैं जिसमें के घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(320)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

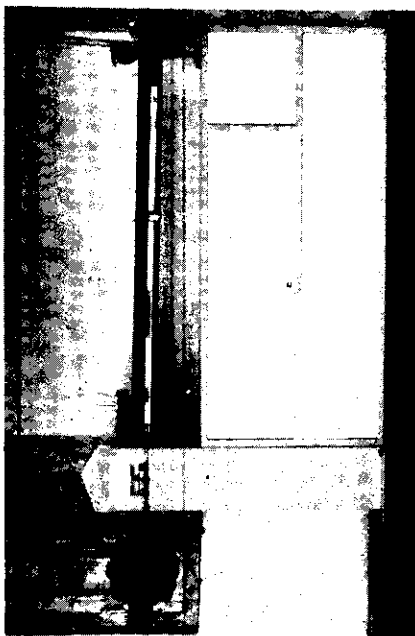
New Delhi, the 24th October, 2003

S.O. 3125.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issue and publishes the certificate of approval of Model of the self-indicating, non-automatic, (steel yard type Weigh bridge) weighing instrument with analogue indication of "Arrow" series of medium accuracy (Accuracy class III) and with brand name "ARROW" (hereinafter referred to as the said model, manufactured by M/s. Dodia Weighing Technology, 54 G.I.D.C Motipura, Himat Nagar-383001 Gujarat and which is assigned the approval mark IND/09/2003/444;

The said Model (see figure) is a (steel yard type Weigh bridge) weighing instrument with working on the principle of lever systems with a maximum capacity of 30 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 per cent subtractive retained tare effect.

Sealing: In addition to sealing the stamping plate sealing is to be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the said Model is to cover the other weighing instruments of same accuracy class and of same make with maximum capacity ranging between 5 tonne and upto 50 tonnes and with number of verification scale interval (n) in the range of 500 to 10,000 of 'e' value of 5kg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same principle, design, accuracy and with the same materials with which, the said approved Model has been manufactured.

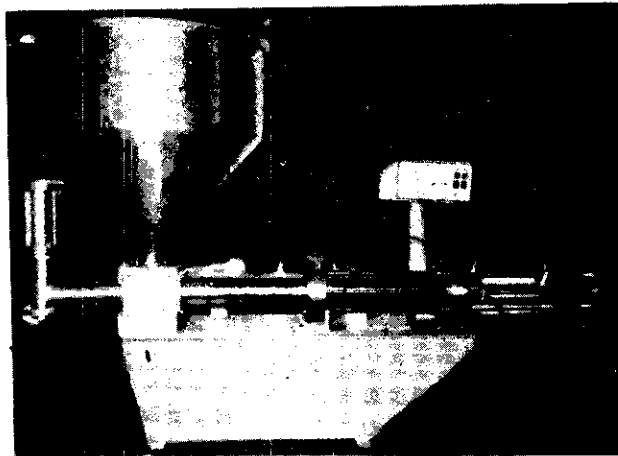
[F. No. WM-21(320)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का.आ. 3126.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इंटर पैक मशीन्स प्राइवेट लिमिटेड, 44/5 नव सयादरी सोसाइटी, निकट नव सयादरी पोस्ट आफिस, पुणे- 411052 द्वारा विनिर्मित "वी पी एफ" शृंखला की स्वचालित, मशीन (पिस्टन फिलर) के मॉडल का, जिसके ब्रांड का नाम "इंटरपैक" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन विह्न आई एन डी/09/2003/322 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;



उक्त मॉडल एक स्वचालित भरण मशीन (पिस्टन फिलर) है। यह समायोज्य आघात चूषण विसर्जन तंत्र का उपयोग करे उत्पाद के परिणाम का नियंत्रण करने के सिद्धान्त पर कार्य करती है। मशीन को 3 मि. ली. से 2000 मि.लि. तक या समतुल्य भार के बीच किसी रेंज में परिदान करने के लिए समायोजित किया जा सकता है। यह प्रति मिनट अधिकतम 40 पाउंड भर सकती है। मशीन खाद्य तेल, घी, वनस्पति, शैम्पू, ग्रीस, पेंट आदि जैसे द्रव उत्पादों को भरने के लिए डिजाइन की गई है यह 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करती है।

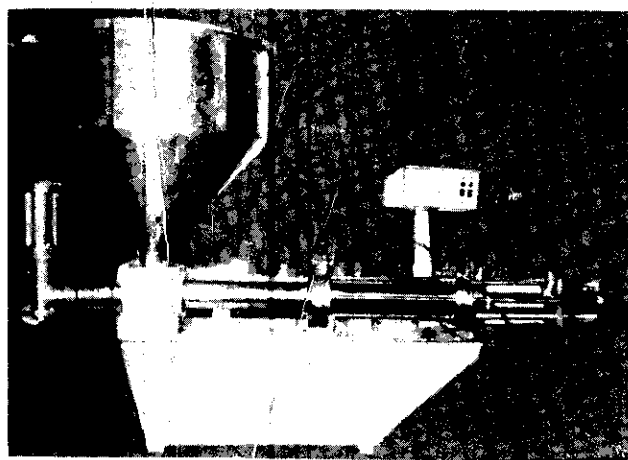
[फा. सं. डब्ल्यू. एम.-21(123)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विभिन्न माप विज्ञान

New Delhi, the 24th October, 2003

S.O. 3126.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of the automatic volumetric filling machine (Piston filler) of 'VPF' series and with brand name "INTERPACK" (piston filler type) (herein referred to as the Model) manufactured by M/s. Interpack Machines Private Limited, 44/5 , Nav-Sayadari Society, Near Nav-Sayadari Post Office, Pune- 411052 and which is assigned the approval Mark IND/09/2003/322;



The said Model (see figure) is an automatic filling Machine (piston filler). It works on the principle of controlling the volume of the product using adjustable stroke suction discharge mechanism. The Machine can be adjusted to deliver any range between 3ml to 2000 ml or equivalent weight. It can fill 40 pouches per minute (maximum). The machine is designed to fill liquid products such as edible oil, ghee, vanaspathi, shampoo, grease, paints, etc. It operates on 230 volts, 50, Hertz alternate current power supply.

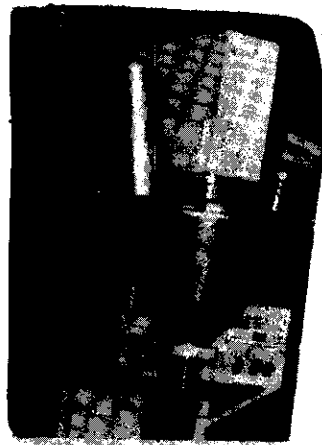
[F. No. WM-21(123)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का.आ. 3127.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इंटर पैक मशीन्स प्राइवेट लिमिटेड, 44/5 नव सयादरी सोसाइटी, निकट नव सयादरी पोस्ट ऑफिस, पुणे- 411052 द्वारा विनिर्मित "वी पी एफ" शृंखला के स्वचालित, भरण मशीन (आगर फिलर प्रकार) के मॉडल का, जिसके ब्रांड का नाम "इंटरपैक" है (जिसे इसमें माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/323 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



उक्त मॉडल एक स्वचालित भरण मशीन (आगर फिलर) है। यह परिमाणात्मक भरण सिद्धान्त पर आधारित स्क्र्यू कन्वेयर के सिद्धान्त पर कार्य करती है। मशीन को 2 ग्रा. से 2000 ग्रा. के बीच किसी रेंज में परिदान करने के लिए समायोजित किया जा सकता है। यह प्रति मिनट उत्पाद विनिर्देशों और बैले की मात्रा पर निर्भर करते हुए अधिकतम 60 पाउंड भर सकती है। मशीन दूध पाउंडर, काफी पाउंडर, पिसे मसाले, दूध पाउंडर दूध और औषधीय पाउंडर आदि जैसे उत्पादों के अमुक्त बहाव को भरने के लिए डिजाइन की गई है यह 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करती है।

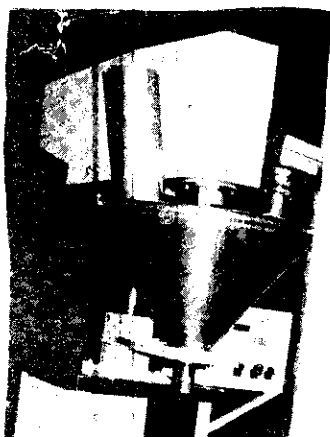
[फा. सं. डब्ल्यू. एम.-21(123)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S.O. 3127.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of the said Act, the Central Government hereby publishes the certificate of approval of Model of the automatic filling machine (Augar filler type) of 'VAF' series and with brand name "INTERPACK" (herein to as the said Model) Manufactured by M/s. Interpack Machines Private Limited, 44/5 , Nav-Sayadari Society, Near Nav-Sayadari Post Office, Pune- 411052 and which is assigned the approval Mark IND/09/2003/328;



The said Model (see figure) is an automatic filling Machine (Auger filler). It works on the principle of screw conveyor based on volumetric filling principle. The Machine can be adjusted to deliver any range between 2g to 2000 g. It can fill 60 pouches per minute (maximum) depending upon the product specifications and quantity of the pouch. The machine is designed to fill non-free flowing products such as Milk powder, coffee powder, ground spices, tooth powder, tooth & Pharmaceutical powder etc. It operates on 230 volt, 50 Hertz alternate current power supply.

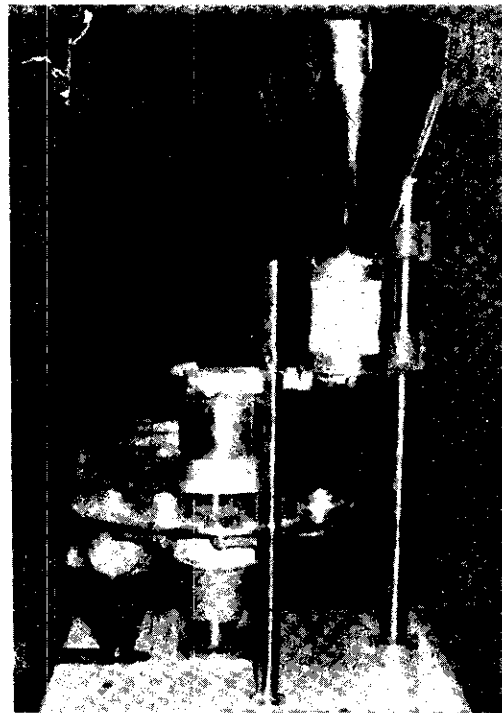
[F. No. WM-21(123)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का०आ० 3128.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 का उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इंटर पैक मशीन्स प्राइवेट लिमिटेड, 44/5 नव सयादरी सोसाइटी, निकट नव सयादरी पोस्ट आफिस, पुणे- 411052 द्वारा विनिर्मित "वी पी एफ" शृंखला की स्वचालित, भरण मशीन (अनुमापी फिलर प्रकार) के मॉडल का, जिसके ब्रांड का नाम "इंटरपैक" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/324 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



उक्त मॉडल एक स्वचालित भरण मशीन (कप फिलर) है। यह समायोज्य संबंधी कर्षों का उपयोग करके उत्पाद के परिमाण का नियंत्रण करने के सिद्धान्त पर कार्य करती है। एक मशीन को 2 ग्रा. से 1000 ग्रा. के बीच किसी रेंज में परिदान करने के लिए समायोजित किया जा सकता है। यह उत्पाद विनिर्दिशों और थैले की मात्रा पर निर्भर करते हुए प्रति मिनट अधिकतम 30 पाउच भर सकती है। मशीन चाय, मसाले, चीनी, चावल, नमक, कणिकाएं, उपमार्जक, बीजों, औषधीय और कृषि उत्पाद आदि जैसे उत्पादों के मुक्त प्रवाह वाले उत्पादों को भरने के लिए डिजाइन की गई है। यह 440 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करती है।

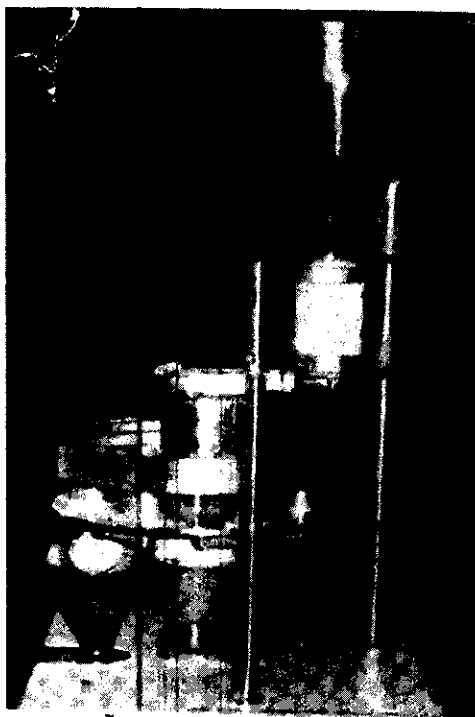
[फा० सं० डब्ल्यू० एम०-21(123)/2001]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S.O. 3128.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the automatic filling machine (volumetric cup filler type) of 'VCF' series and with brand name "INTERPACK" (herein referred to as the said Model) Manufactured by M/s: Interpack Machines Private Limited, 44/5 , Nav-Sayadari Society, Near Nav-Sayadari Post Office, Pune- 411052 and with is assigned the approval Mark IND/09/2003/324;



The said Model (see figure) is an automatic filling Machine (Cup filler). It works on the principle of controlling the volume of the product using adjustable cylindrical cups. The machine can be adjusted to deliver any range between 2g to 1000 g. It can fill 30 pouches per minute (maximum) depending upon the product specifications and quantity of the pouch. The machine is designed to fill free flowing products such as Tea, spices, Sugar, rice salt, granules, detergents, seed, Pharmaceutical and agriculture products etc. It operates on 440 volt, 50 Hertz alternate current power supply.

[F. No. WM-21(123)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का०आ० 3129.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः अब केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इंटर पैक मशीन्स प्राइवेट लिमिटेड, 44/5 नव सयादरी सोसाइटी, निकट नव सयादरी पोस्ट आफिस, पुणे- 411052 द्वारा विनिर्मित "जी एफ एम" श्रृंखला की स्वचालित भरण मशीन (चे फिलर प्रकार) के मॉडल का, जिसके ब्रांड का नाम "इंटरपैक" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन घिहन आई एन डी/09/2003/325 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



उक्त मॉडल एक स्वचालित भरण मशीन (चे फिलर) है। यह भार सेल से संकेत का प्रयोग करते हुए पोषक के नियंत्रण के सिद्धान्त पर कार्य करती है। मशीन को 5 ग्रा० से 5000 ग्रा० के बीच किसी रेंज में परिदान करने के लिए समायोजित किया जा सकता है। यह उत्पाद विनिर्दिशों और थैले की मात्रा पर निर्भर करते हुए प्रति मिनिट अधिकतम 30 पाउंच भर सकती है। मशीन बिस्कुटों, दालों, चिप्स, अनाजों, मसालों, चाय, शुगर, चावल, बीजों, मिष्ठान जैसे उत्पादों के मुक्त प्रवाह वाले उत्पादों को भरने के लिए डिजाइन की गई है। उपकरण 440 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

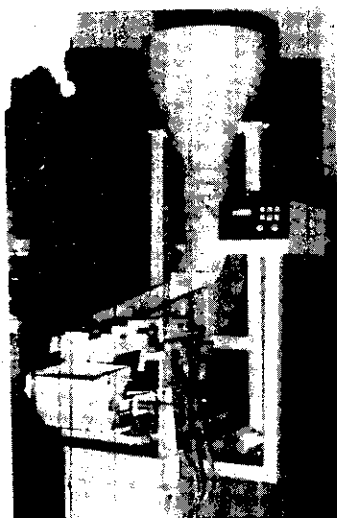
[फन० सं० डब्ल्यू० एम०-21(123)/2001]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S.O. 3129.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the automatic filling machine (weigh filler type) of 'GFM' series and with brand name "INTERPACK" (herein after referred to as the said Model) manufactured by M/s. Interpack Machines Private Limited, 44/5, Nav-Sayadari Society, Near Nav-Sayadari Post Office, Pune- 411052 and with is assigned the approval Mark IND/09/2003/325;



The said Model (figure given) is an automatic filling Machine (Weigh filler). It works on the principle of controlling the feeder using the signal from load cell. The machine can be adjusted to deliver any range between 5g to 5000g. It can fill 30 pouches per minute (maximum) depending upon the product specifications and quantity of the pouch. The machine is designed to fill free flowing products such as Biscuits, Pulses, chips, Grains, spices, Tea, Sugar, rice, seeds, confectionary. It operates on 440 volt, 50 hertz alternate current power supply.

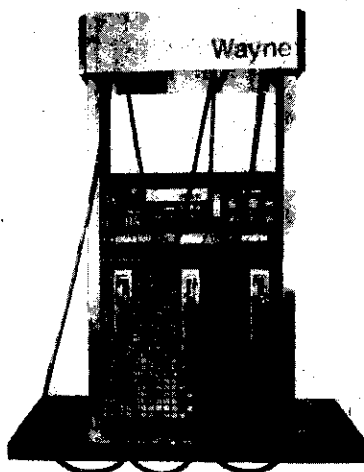
[F. No. WM-21(123)/2001]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का. आ. 3130.—केंद्रीय सरकार का, मिनिस्टीरियो डो डेस्नेबोल्विमेन्टो, इंडस्ट्रिया अ फार्मिसयो एक्सटीरियो। इंस्टीट्यूटो नेशनल डे मेट्रोलाजिया, नार्मलाइजेक्लाओ ए क्वालिडाडे इंडस्ट्रियल, इनमेरट्रो द्वारा जारी किए गए मॉडल अनुमोदन प्रमाण पत्र के साथ विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (3) के तीसरे परन्तुक और उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए व्याने ब्रांड के बहु उत्पाद पम्प और वितरक (एम पी डी) के मॉडल का, जिसे इसमें मॉडल कहा गया है और मैसर्स ड्रेसर इंडस्ट्रिया लटडा डिविजाओ व्याने, ब्राजील, द्वारा विनिर्मित और मैसर्स टेलटेक इंस्ट्रुमेंटेशन प्रा. लि., 28/4 बी, खरादी, आफ नगर रोड, पुणे-411014 द्वारा बिना किसी परिवर्तन या परिवर्धन के भारत में बिक्रीत 3/जी 3387, 3/जी 3388, 3/जी 3389, 3/जी 3399 और 3/जी 3490 संख्या वाले मॉडल का और जिसे अनुमोदन चिह्न आई एन डी/13/2003/243 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



मॉडल एक बहु उत्पाद पम्प और वितरक है। जिसकी अधिकतम प्रवाह दर 50 लीटर प्रति मिनट या 75 लीटर प्रति मिनट और न्यूनतम प्रवाह दर 5 लीटर प्रति मिनट है। लघुतम खण्ड 0.01 लीटर है। परिमाण या मूल्य द्वारा पूर्ण सेट सुविधा सहित अधिकतम परिमाण सूचक 9999.99 लीटर और अधिकतम मूल्य सूचक 9999.99 रुपये है। यूनिट मूल्य सूचन 99.99 रुपये है। इसमें 7 अंकीय योगापक है।

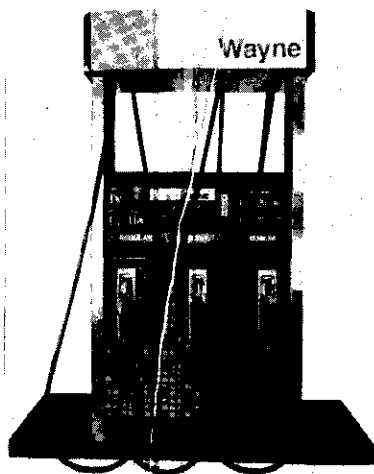
[फा. सं. डब्ल्यू. एम.-21(329)/2002]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S. O. 3139.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, along with the Model approval certificate issued by the Ministerio Do Desenvolvimento, Industria E Comercio Exterior, Instituto Nacional De Metrologia, Normalizaçao e Qualidade Industrial, Inmetro, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by the third proviso to Sub-section (3) and Sub-section (8) of Section 36 of the said Act, the Central Government hereby issue and publishes the certificate of approval of the Model of the Multi Product Pumps and Dispensers (MPD) of "Wayne" brand herein referred to as the Model, bearing Model Numbers 3/G 3387, 3/G 3388, 3/G 3389, 3/G 3399 and 3/G 3490 manufactured by M/s Dresser Industria Ltda Divisao Wayne, Brazil and sold in India without any alteration or additions by M/s Teltech Instrumentation Pvt Ltd., 28/4B, Kharadi, Off Nagar Road, Pune-411 014, and which is assigned the approval mark IND/13/2003/243.



The Model is a Multi Product Pumps and Dispenser with maximum flow rate 50 litre/ minute or 75 litre/minute and minimum flow rate 5 litre/ minute. The smallest division is 0.01 litre. The maximum volume indication is 9999.99 litre and maximum value indication is Rs. 9999.99 with pre-set facility by volume or by value. The Unit price indication is Rs. 99.99. It has a 7 digits totalizer.

[F. No. WM-21(329)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का. आ. 3131.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वे गार्ड इंडिया, सी-155, फर्स्ट फ्लोर, बी जी टावर, आउट साइड दिल्ली दरवाजा, अहमदाबाद-380004 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "वे गार्ड" श्रृंखला के स्वतः सूचक, अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबल प्रकार) के मॉडल का, जिसके ब्रांड का नाम "वे गार्ड" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/320 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृतमापी टाइप भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सीलबन्दी : स्टाम्पिंग प्लेट को सील बन्द करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सील बन्द की जाती है।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन, शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिससे अनुमोदित मॉडल का विनिर्माण किया गया है। उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अन्तराल (एन) की संख्या और 5 ग्रा. या उसके अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अन्तराल (एन) की संख्या सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(145)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S. O. 3131.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, (Table type) weighing instrument with digital indication of "Weigh Guard" series of medium accuracy (Accuracy class III) and with brand name "WEIGH GUARD" (here referred to as the Model), manufactured by M/s. Weigh Guard India, C-155, First floor, B.G. Tower, Outside Delhi Darwaja, Ahmedabad-380 004 and which is assigned the approval mark IND/09/2003/320;

The said model (see the figure given below) is a strain gauge load cell based type weighing instrument with a maximum capacity of 30kg and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 percent subtractive retained tare effect. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing : In addition to sealing the stamping plate, sealing is done to prevent the opening of machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity upto 50kg and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(145)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का. आ. 3132.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वे गार्ड इंडिया, सी-155, फर्स्ट फ्लोर, बी जी टावर, आउट साइड दिल्ली दरवाजा अहमदाबाद-380004 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "वे गार्ड" श्रृंखला के स्वतः सूचक, अस्वचालित, अंकक सूचन सहित तोलन उपकरण (प्लेटफार्म टाइप के लिए संपरिवर्तन किट) के मॉडल का, जिसके ब्रांड का नाम "वे गार्ड" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/321 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृतमापी टाइप भार सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 300 कि. ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सीलबन्दी: स्टाम्पिंग प्लेट को सील बन्द करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सील बन्द की जाती है।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिस से अनुमोदित मॉडल का विनिर्माण किया गया है। उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) की संख्या सहित 50 कि. ग्रा. से 500 कि. ग्रा. की रेंज में अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 या 5×10^6 है जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(145)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S. O. 3132.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions :

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, (Conversion kit for Platform type) weighing instrument with digital indication of "Weigh Guard" series of medium accuracy (Accuracy class III) and with brand name "WEIGH GUARD" (herein referred to as the Model), manufactured by M/s. Weigh Guard India, C-155, First floor, B.G.Tower, Outside Delhi Darwaja, Ahmedabad-380 004 and which is assigned the approval mark IND/09/2003/321;

The said model (see the figure given below) is a strain gauge load cell based type weighing instrument with a maximum capacity of 300kg and minimum capacity of 1kg. The verification scale interval (e) is 50g. It has a tare device with a 100 percent subtractive retained tare effect. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing: In addition to sealing the stamping plate, sealing is done to prevent the opening machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity ranging from 50kg to 500kg and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k , or 5×10^k , k being the positive or negative wholenumber or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approval Model has been manufactured.

[F.No. WM-21(145)2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

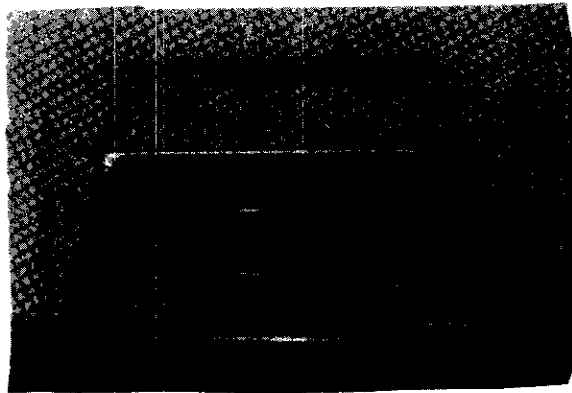
नई दिल्ली, 24 अक्टूबर, 2003

का. आ. 3133.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स निखिल इंटर प्राइज, 5, पत्रकार कालोनी, सावेदी, अहमदनगर-414001 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "साई" श्रृंखला के, अस्वचालित, अंकक सूचन सहित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "साई स्केल" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/175 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृतमापी टाइप भार सेल आधारित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) अस्वचालित, अंकक सूचन सहित (टेबल टाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 10 कि. ग्रा. और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 2 ग्रा. है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सीलबन्दी: स्टाम्पिंग प्लेट को सील बन्द करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सील बन्द की जाती है।



और, केंद्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिससे अनुमोदित मॉडल का विनिर्माण किया गया है। उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) की संख्या सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 या 5×10^6 हैं जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(319)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

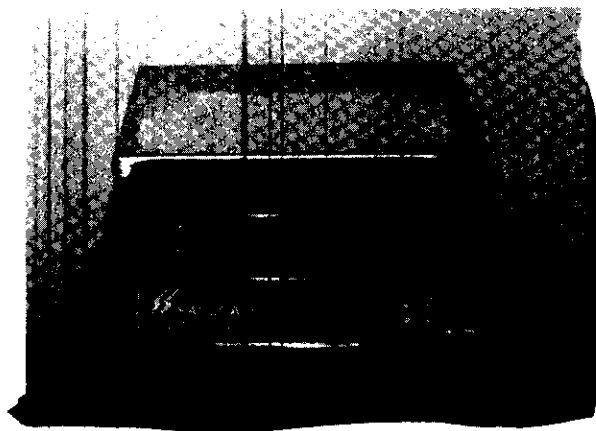
New Delhi, the 24th October, 2003

S. O. 3133.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the non-automatic weighing instrument, (Table top type) with "SAI" series belonging to medium accuracy (accuracy class-III) and with brand name "SAI SCALE" (herein referred to as the Model), manufactured by M/s. Niklul Enterprise, 5, Patrakar Colony, Savedi, Ahmednagar-414001 and which is assigned the approval mark IND/09/2003/175;

The said model (see the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (Table top type) working on the principle of load cell with digital indication of maximum capacity 10kg, minimum capacity 40g and belonging to medium accuracy class (accuracy class-III). The value of verification scale interval 'e' is 2g. The display unit is of light emitting diode (LED) type. The instrument operates on 230 volts and 50-Hertz alternate current power supply;

Sealing: In addition to sealing the stamping plate, sealing is done to prevent the opening of machine for fraudulent practices.



Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity upto 50kg and with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with the number of verification scale interval (n) in the range 500 to 10000 for 'e' value of 5 g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the approval Model has been manufactured.

[F. No. WM-21(319)/2001]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

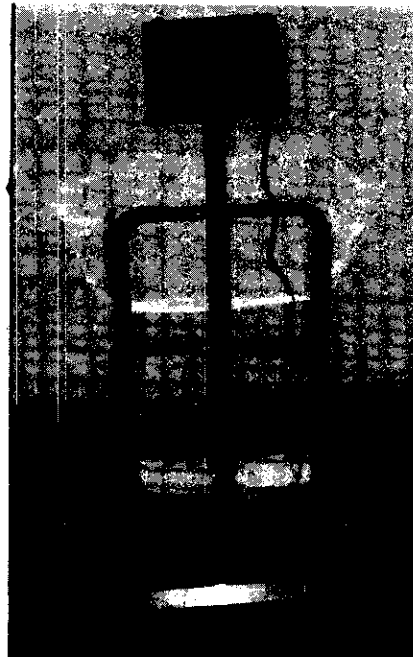
नई दिल्ली, 24 अक्टूबर, 2003

का.आ. 3134.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स निखिल इंटर प्राइज, 5, पत्रकार कालोनी, सावेदी, अहमदनगर-414001 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) (वाले "साई" श्रृंखला के अस्वचालित, अंकक सूचन सहित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "साई स्केल" है (जिसे इसमें मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/176 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

उक्त मॉडल (नीचे दी गई आकृति देखें) विकृतमापी टाइप भार सेल आधारित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) अस्वचालित, अंकक सूचन सहित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 100 कि. ग्रा. और न्यूनतम क्षमता 200 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 10 ग्रा. है। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

सीलबन्दी: स्टाम्पिंग प्लेट को सील बन्द करने के अतिरिक्त, कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सील बन्द की जाती है।



और, केंद्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिस से अनुमोदित मॉडल का विनिर्माण किया गया है। उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) की संख्या सहित 50 कि. ग्रा. से अधिक और 300 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^3 , 2×10^3 या 5×10^3 के हैं जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(319)/2001]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

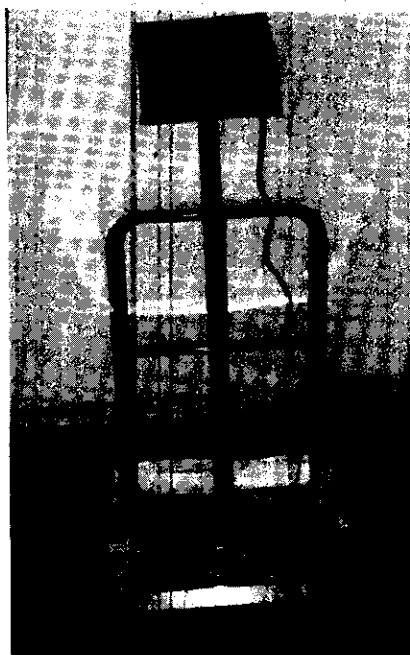
New Delhi, the 24th October, 2003

S.O. 3134.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of, non-automatic weighing instrument, (Platform type) with "SAI" series belonging to medium accuracy (accuracy class-III) and with brand name "SAI SCALE" (herein referred to as the Model), manufactured by M/s. Nikhil Enterprise, 5, Patrakar Colony, Savedi, Ahmednagar-414001 and which is assigned the approval mark IND/09/2003/176;

The said Model (see the figure given) is a strain gauge type load cell based non-automatic weighing instrument (Platform type) working on the principle of load cell with digital indication of maximum capacity 100 kg, minimum capacity 200g and belonging to medium accuracy class (accuracy class-III). The value of verification scale interval 'e' is 10g. The display unit is of light emitting diode (LED) type. The instruments operates on 230 Volts and 50-Hertz alternate power supply.

Sealing: In addition to sealing the stamping plate, sealing is done to prevent the opening of machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 50kg and upto 300kg and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21(319)/2001]

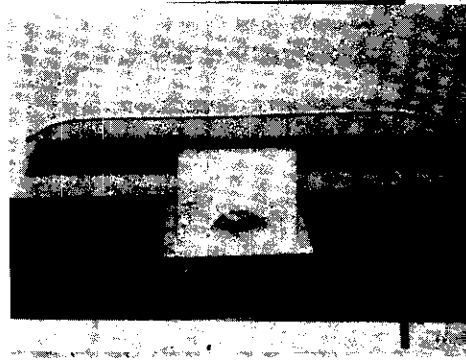
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का.आ. 3135.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का और उपधारा (8) का प्रयोग करते हुए मैसर्स वे ट्रानिक्स, ए-91, कैथवाड़ा, न्यू उस्मानपुर, दिल्ली-110053 द्वारा विनिर्मित सामान्य यथार्थता (यथार्थता वर्ग 4) वाले "बी एस पी" शृंखला के अस्वचालित, सदृशसूचक सहित तोलन उपकरण (शिशु तोलन मशीन) के मॉडल का, जिसके ब्रांड का नाम "इलेक्ट्रो" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे उक्त अनुमोदन चिह्न आई एन डी/09/2003/215 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल एक यांत्रिक स्प्रिंग आधारित अस्वचालित सामान्य यथार्थता वर्ग (यथार्थता वर्ग 4) (शिशु तोलन मशीन) सदृशसूचक तोलन उपकरण है। इसकी अधिकतम क्षमता 10 कि.ग्रा., और न्यूनतम 500 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 50 ग्रा. है।



और, केन्द्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन के इस प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिस से अनुमोदित मॉडल का विनिर्माण किया गया है। उसी शृंखला के उसी मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 50 ग्रा. या उससे अधिक के "ई" मान के लिए 100 से 1,000 तक की रेंज में सत्यापन मान अन्तराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{-6} , 2×10^{-6} या 5×10^{-6} के हैं जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(37)/2002]

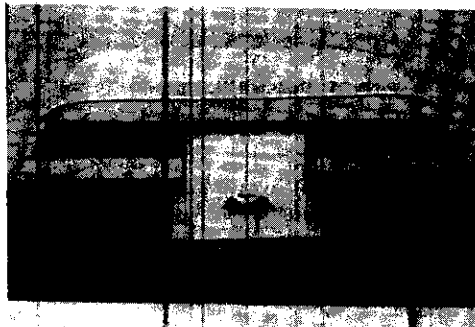
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S.O. 3135.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issued and publishes the certificate of approval of Model of, non-automatic weighing instrument, (Baby weighing machine) with analogue indication (hereinafter referred to as the said Model) belonging to ordinary accuracy class (accuracy class-IV) and "BSP" series with brand name "ELECTRO", manufactured by M/s. Weigh Tronics, A-91, Kaithwara, New Usmanpur, Delhi-110 053 and which is assigned the approval mark IND/09/2003/215;

The said Model is a mechanical spring based non-automatic weighing instrument (Baby weighing machine) with analogue indication of maximum capacity 10 kg, minimum capacity 500g and belonging to ordinary accuracy class (accuracy class-IV). The value of verification scale interval 'e' is 50g.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50kg and with number of verification scale interval (n) in the range of 100 to 1000 for 'e' value of 50g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design, and with the same materials with which, the approved Model have been manufactured.

[F. No. WM-21(37)/2002]

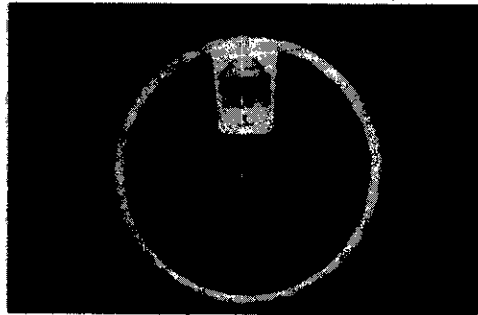
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का. आ. 3136.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का और उपधारा (8) का प्रयोग करते हुए मैसर्स वे ट्रानिक्स, ए-91, कैथवाड़ा, न्यू उसमानपुर, दिल्ली-110053 द्वारा विनिर्मित सामान्य यथार्थता वर्ग (यथार्थता वर्ग 3) वाले "पी एस पी" श्रृंखला के अस्वचालित, सदृश-सूचक सहित तोलन उपकरण (व्यक्ति तोलन मशीन) के मॉडल का, जिसके ब्रांड का नाम "इलेक्ट्रो" है (जिसे इसमें मॉडल कहा गया है) और जिसे उक्त अनुमोदन चिह्न आई एन डी/09/2003/214 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

उक्त मॉडल एक यांत्रिक स्प्रिंग आधारित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-3) सदृश-सूचक अस्वचालित तोलन उपकरण (व्यक्ति तोलन मशीन) है। इसकी अधिकतम क्षमता 130 कि.ग्रा., और न्यूनतम 5 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 500 ग्रा. है।



और, केंद्रीय सरकार उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से विनिर्मित जिससे अनुमोदित मॉडल का विनिर्माण किया गया है। उसी श्रृंखला के उसी मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे और 100 ग्रा. या उससे अधिक के "ई" मान के लिए 100 से 1000 तक की रेंज में सत्यापन मान अंतराल एन सहित 100 कि. ग्रा. से अधिक 150 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 या 5×10^6 के हैं जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(37)/2002]

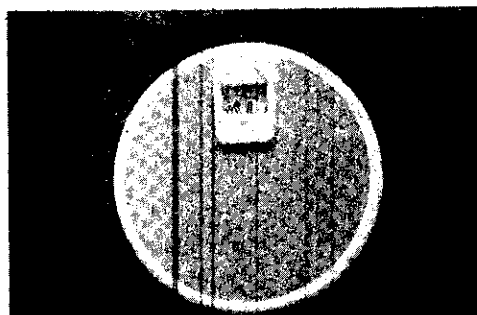
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S. O. 3136.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of, non-automatic weighing instrument, (Person weighing machine) with analogue indication (hereinafter referred to as the said model) belonging to ordinary accuracy class (accuracy class-III) and "BSP" series with brand name "ELECTRO", manufactured by M/s. Weigh Tronics, A-91, Kaithwara, New Usmanpur, Delhi-110 053 and which is assigned the approval mark IND/09/2003/214;

The said model is a mechanical spring based non-automatic weighing instrument (Person weighing machine) with analogue indication of maximum capacity 130kg, minimum capacity 5kg and belonging to ordinary accuracy class (accuracy class-III). The value of verification scale interval 'e' is 500g.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 100kg and up to 150kg and with number of verification scale interval (n) in the range of 100 to 1000 for 'e' value of 100g or more and with 'e' value of 1×10^k , 2×10^k , or 5×10^k k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model have been manufactured.

[F. No. WM-21(37)/2002]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का. आ. 3137.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट तथा माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स स्पेस इलेक्ट्रिकल्स, 5, वृन्दावन अपार्टमेंट, ब्राह्मिन सोसाइटी, नवपाद, थाने 400602 द्वारा विनिर्मित "वी एस-100" श्रृंखला के स्वचालित, भरण मशीन (पिस्टन फिलर प्रकार) के मॉडल का, जिसके ब्रांड का नाम "स्पेस" है (जिसे इसमें मॉडल कहा गया) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/186 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।

उक्त मॉडल एक स्वचालित भरण मशीन (पिस्टन फिलर) है। इसकी अधिकतम क्षमता 500 ग्रा. और न्यूनतम क्षमता 2 ग्रा. या समतुल्य मात्रा है। यह प्रति मिनट अधिकतम 40 पाउण्डों की दर से भरती है। मशीन एक्जेलिक डिस्टेंम्पर, सिन्थेटिक एनेमल, इजी लॉक, मैक्सिलाइट डिस्टेंम्पर, अदरतव लहसुन पेस्ट, मिर्च लहसुन, जीरा पेस्ट आदि जैसे ब्राउन को भरने के लिए डिजाइन की गई है।



और, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उस सिद्धान्त, डिजाइन शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिससे अनुमोदित मॉडल का विनिर्माण किया गया है। उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन की स्वचालित भरण मशीन भी होगी जो 2 ग्रा. से 5000 ग्रा. या समतुल्य मात्रा की अधिकतम क्षमता वाले हैं। तोलन उपकरण भी होंगे जो 10 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) की संख्या सहित 50 कि. ग्रा. से अधिक और 5 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^6 , 2×10^6 या 5×10^6 के हैं जिसमें के धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू. एम.-21(142)/2002]

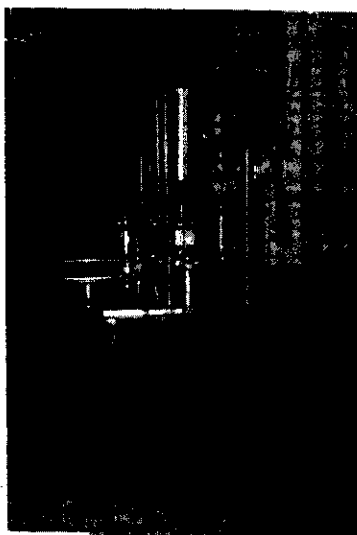
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S. O. 3137.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions :

Now, therefore, in exercise of the powers conferred by Sub-section (7) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of, automatic filling machine (Piston filler) of 'VS-100' series with brand name "SPACE" (herein referred to as the said Model) manufactured by M/s. Space Electricals, 5, Vrindavan Apartments, Brahmin Society, Naupada, Thane-400602 and which is assigned the approval mark IND/09/03/186;

The said model is an automatic filling machine (Piston filler). Its maximum capacity is 500g and minimum capacity is 2g or equivalent volume. It has a maximum fill rate of 40 pouches per minute. The machine is designed for filling the liquid like acrylic distemper, synthetic enamel, easy lock, maxilite distemper, ginger-garlic paste, chilli-garlic-jeera paste and the like.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the automatic filling machine of similar make, accuracy and performance of the same series with the maximum capacity in the range of 2g to 5000g or equivalent volume manufactured by the same manufacturer in accordance with the same principle, designed and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(142)/2002]

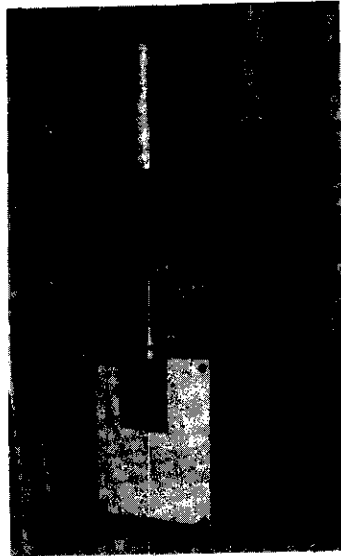
P.A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 24 अक्टूबर, 2003

का. आ. 3138.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा ;

अतः, अब, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स स्पेस इलेक्ट्रिकल्स, 5, वृन्दावन अपार्टमेंट, ब्राह्मिन सोसाइटी, नवपाद, थाने 400602 द्वारा विनिर्मित "1-6-आर" श्रृंखला की स्वचालित, भरण मशीन (पिस्टन फिलर प्रकार) के माडल का, जिसके ब्रांड का नाम "स्पेस" है (जिसे इसमें माडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2003/185 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।

उक्त माडल एक स्वचालित भरण मशीन (पिस्टन फिलर) है। इसकी अधिकतम क्षमता 500 ग्रा. और न्यूनतम क्षमता 2 ग्रा. या समतुल्य परिमाण है। इसकी अधिकतम भरण दर 5 से 40 पाउच प्रतिमिनट है।



और, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन शुद्धता के अनुसार और उसी सामग्री से विनिर्मित जिस से अनुमोदित मॉडल का विनिर्माण किया गया है। उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन की स्वचालित भरण मशीन भी होगी जो 2 ग्रा. से 1 कि.ग्रा. या समतुल्य मात्रा की अधिकतम क्षमता वाले है।

[फा. सं. डब्ल्यू. एम.-21(142)/2002]

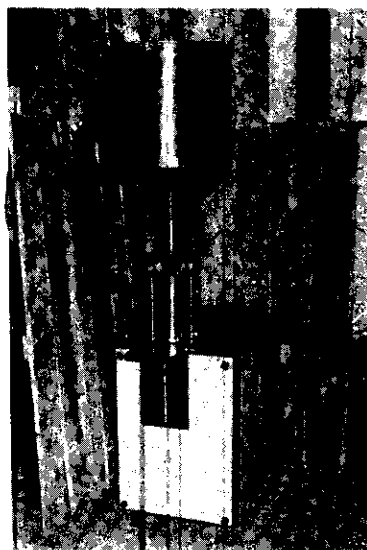
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 24th October, 2003

S. O. 3138.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions :

Now, therefore, in exercise of the powers conferred by Sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of Model of, automatic filling machine (Piston filler) of '1--6R' series with brand name "SPACE" (herein referred to as the said Model) manufactured by M/s. Space Electricals, 5, Vrindavan Apartments, Brahmin Society Naupada, Thane-400602 and which is assigned the approval mark IND/09/03/185;

The said model is an automatic filling machine (Piston filler). Its maximum capacity is 500g and minimum capacity is 2g or equivalent volume. It has a maximum fill rate of 15 to 40 pouches per minute. The machine is designed for filling the viscous liquid products like curd, jam, shrikhand, shampoo, grease, paints etc.



Further, in exercise of the powers conferred by Sub-section (12) of the section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the automatic filling machine of similar make, accuracy and performance of the same series with the maximum capacity in the range of 2g to 1kg or equivalent volume manufactured by the same manufacturer in accordance with the same principle, designed and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(142)/2002]

P.A. KRISHNAMOORTHY, Director of Legal Metrology

भ्रम मंत्रालय

नई दिल्ली, 6 अक्टूबर, 2003

क्रा. आ. 3139.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भ.को.को. लि. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या नं. 42/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-2003 को प्राप्त हुआ था।

[सं० एल-20012/6/93-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

MINISTRY OF LABOUR

New Delhi, the 6th October, 2003

S.O. 3139.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. No. 42/96) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 1-10-2003.

[No. L-20012/6/93-IR (C-D)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD

PRESENT

Shri B. Biswas Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO.42 OF 1996

PARTIES: Employers in relation to the management of Kusunda Area of M/s. B.C.C.L. and their workman.

APPEARANCES:

On behalf of the workman : Mr. Kamlesh Singh, Advocate.
On behalf of the employer : Mr. R. N. Ganguly, Advocate.
State : Jharkhand
Industry : Coal.

Dated, Dhanbad, the 9th September, 2003

AWARD

The Government of India Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(6)/93 IR(Coal-I), dated, the 19th March, 1996.

SCHEDULE

“Whether the Union is justified in claiming that the management has discriminated against Shri Anup Prasad, W.B. Clerk Gr. II in the matter of promotion to Clerical Grade-I? If so, to what relief is the concerned workman entitled?”

2. The case of the concerned workman according to W.S. submitted by the sponsoring Union on behalf of the concerned workman in brief is as follows:-

The sponsoring union submitted that the concerned workman was working at Kusunda Area since 21-10-71 and was promoted to Grade-II clerk with effect from 1-6-77. They submitted that the management published seniority list of the clerks vide office order No. 6/P/4/60/ Clerical/Grade-II/81/991 dt. 30-4-81 wherein the name of the concerned workman appeared in Sl. No. 101. The sponsoring Union submitted that as per office order No. A-6/P-4(Promotion) Clerical Gr-II-33/7075/3191 dt. 17-9-83 the cases of Gr. II Clerks who were in Gr. I/II/P to 31-12-74 were promoted to Grade-I Clerk with immediate effect but notional seniority was given from 1-4-83. Under the above mentioned office order Sri Arun Prasad Singh Sl. No. 113, Ram Prasad Sharma Sl. No. 114, Shri D.N. Pandey Sl. No. 119 got their promotion to Grade-I clerk although they were not in Grade-II clerk upto 31-12-74. They submitted that while the names of those persons appeared in Sl. No. 113, 114, 119 respectively the name of the concerned workman appeared in Sl. No. 101 of final seniority list of 30-4-81. Disclosing this fact they alleged that due to discriminating policy adopted by the management the concerned workman was superseded. They further disclose that Shri Arjun Rewani Sl. No. 109, Sri Amar Pd. Singh Sl. No. 108 and Sri Nizamuddin Mian Sl. No. 115 though were junior to the concerned workman as per final seniority list published in the year 1981 were promoted to Clerical Gr. I with effect from 1-6-88 vide office Order No. A6/P-4 Promotion Clerical Gr. II 88/1669 dt. 29-6-88. Referring this fact the sponsoring Union alleged that it is another glaring example which exposed how the concerned workman was victimised in getting his promotion to clerical Grade. I due to discriminating policy adopted by them. Accordingly the concerned workman submitted representation before the management for giving his promotion but as management refused to do so he raised an industrial dispute through sponsoring Union for conciliation which ultimately resulted reference to this Tribunal for adjudication. Accordingly the sponsoring Union submitted their prayer to pass award directing the management to give promotion to the concerned workman in clerical Grade-I placing him above Nizamuddin Mian, Amar Prasad Singh, Arjun Rewani and Sahadeo Yadav.

3. Management on the contrary after filing Written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in their Written statement. They submitted that the management prepared a seniority list in the year 1981 on the basis of data available at different collieries of Area No. VI. After circulation

of the seniority list several disputes were raised by different workers through different union for correction of seniority list and they submitted documentary evidence in support of their claim for granting them seniority in clerical Grade-II before the dates actually shown against their names and consequently Joint Committee were formed consisting of the representative of the management and the representatives of the union and the matter was decided and granted notional seniority to several workman. The concerned workman Shri Anup Prasad did not make out any case for change of his seniority for giving him notional seniority in Clerical Gr. II prior to 1-2-77. He was promoted to clerical Gr. II with effect from 1-6-76 and he assumed the post from that date and his seniority was counted from that date. There was no ground for him to claim notional seniority prior to 1-6-77. In the year 1983 all the unions in the Joint Consultative Committee made a request to the management for granting promotion to all Grade. II clerks as on 31-12-74 to clerical Grade-I with effect from 1-4-83. The management accordingly considered their request and issued the order granting promotion to all clerks in Grade-II as on 31-12-74 with effect from 1-4-83. They submitted that as a large number of clerks in Grade-II were promoted in Grade-I in the year 1983 vacancies in Grade-I were completely filled up and the management had to put some clerks to continue performing Grade-II job due to want of vacancy of Grade-I post. In the year 1988 some vacancies occurred in Grade-I and some workman in clerical Grade-II were promoted to Grade-I and all of them were senior to the concerned workmen. They alleged that the concerned workman in order to place his claim relied on the seniority list prepared in the year 1981 which was subsequently corrected in respect of several workmen on the basis of their individual claim and on the basis of verification reports made by the Joint Consultative Committee. The concerned workman had no ground to demand for his promotion from Grade-II to Grade-I according to his claim. They submitted that they did not adopt any discriminatory policy in violating the principles of natural justice to ignore the promotion of the concerned workman. Accordingly they submitted that the claim of the concerned workman will be liable to be rejected as it has no merit.

4. The Points to be considered in this reference are:—

"Whether the Union is justified in claiming that the management has discriminated against Shri Anup Prasad W.B. Clerk Grade-II in the matter of promotion to Clerical Grade-I? If so, to what relief is the concerned workman entitled?"

FINDING WITH REASONS

5. It transpires from the record that the concerned workman in order to substantiate his claim examined himself as WW-1. On the contrary management in support of their claim examined one witness as MW-1. Now let me consider how far the claim of the concerned workman stands on cogent footing and if so whether he is entitled to get promotion according to his prayer. Considering evidence of both sides and also considering pleadings and material documents on record I find no

dispute to hold that the concerned workman got his promotion in Clerical Grade-II with effect from 1-6-77. There is also no dispute to hold that the management in the year 1981 published a provisional Seniority list (Ext. W-1) in respect of Grade. II Clerks. From this seniority list it transpires that while the name of the concerned workman appears in Sl. No. 101, the names of Amar Pd. Singh, Arjun Rewani, Nizamuddin Mian and Rajendra Pr. Singh appeared in Sl. No. 108, 109 and 115. It is the specific allegation of the concerned workman that though these workmen were junior to him as per provisional seniority list they got their promotion in Clerical Grade-I prior to him. On the contrary management submitted that final seniority list in respect of Grade-II clerks was published vide reference NO. BCCL/P4/Snty/Gr. II/88/1539 dt. 15/18-6-88 (Ext. W-3). They disclosed that after publishing the provisional seniority list several disputes were raised by different workers through the different union for correction of seniority list and they submitted documentary evidence in support of their claim for granting their seniority in clerical Grade-II before the dates actually shown against their names and consequently joint committee were formed consisting of representative of the management and the representative of the union and the matter was decided and granted notional seniority to several workman. MW-1 during his evidence categorically explained this fact and disclosed that why they had to publish Final seniority list in the year 1983. According to the final seniority list the name of the concerned workman is appearing in Sl. No. 36 while the names of other workmen namely Nizamuddin Mian, Sahdeo Yadav, Amar Pd. Singh and Arjun Rewani are appearing in Sl. No. 10, 18, 28, 32 respectively. Date of entry in clerical Grade-II of these four workmen are 1-7-75, 1-9-75, 17-1-77, 1-5-77 while entry of the concerned workman in clerical Grade-II was 1-6-77. Therefore, final seniority list is clear enough to show that the concerned workman was junior to these four workmen. In course of hearing the concerned workman has failed to produce a single scrap of paper to show that he is senior to these workmen. Actually it is seen that the concerned workman placed his claim relating to his seniority as per provisional seniority list published by the management. Management have already discussed that the said provisional seniority list as was defective and as several workmen raised serious dispute over this list they had to prepare a final seniority list on the basis of the recommendation of the Joint Consultative Committee. It is not the case of the concerned workman that the final seniority list which was published by the management was illegal and arbitrary. Apart from this fact management submitted that they gave promotion to some clerks in Grade-II as on 31-12-74 to Clerical Gr.-I with effect from 1-4-83 on the basis of representations made by several unions. They disclosed that due to issuance of that promotional order as the posts of clerk Grade-I were filled up there was no scope to give promotion to other clerks Grade-II to Grade-I. However, in the year 1988 when some vacancies occurred in Grade-I some workmen in Clerical Gr. II were promoted to Grade-I and all of them were senior to the concerned workman. The promotional order to

this effect issued on 29-6-88 during evidence of the concerned workman was marked as Ext. W-5. It is seen from the office order that Nijamuddin, Sahadeo Yadav, Amar Pd., Arjun Rewani for their promotion in Clerical Gr.-I from Clerical Gr.-II on the basis of the recommendation of D.P.C. the final list marked as Ext. W-3 has exposed clearly that all these workman were senior to the concerned workman in clerical Grade-II and D.P.C. recommended their names for promotion considering their seniority and also considering their merits. Therefore, onus absolutely rests on the concerned workman that such recommendation of the D.P.C. was illegal, arbitrary and in violation to the principles of natural justice. I have carefully considered all the materials on record and I find no hesitation to say that the concerned workman or his sponsoring union has failed to produce a single scrap of paper to show that management took discriminatory policy in giving promotion to other workman in clerical Grade-I superseding the claim of the concerned workman though he was senior to them. Accordingly I find no hesitation to say that the concerned workman has failed to establish his claim lamentably and for which he is not entitled to get any relief. In the result, the following Award is rendered :-

"The Union is not justified in claiming that the management has discriminated against Shri Anup Prasad, W.B. Clerk Grade-II in the matter of promotion to Clerical Grade-I. Consequently the concerned workman is not entitled to get any relief."

B. BISWAS, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 2003

का. आ. 3140.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, धनबाद के पंचाट (संदर्भ संख्या 88/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को :-10-2003 को प्राप्त हुआ था।

[सं० एल- 20012/595/97-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 6th October, 2003

S.O. 3140.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 88/98) of the Central Government Industrial Tribunal/Labour Court-II, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 1-10-2003.

[No. L-20012/595/97-IR(C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENT

Shri B. Biswas : Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1) (d) of the I.D. Act, 1947

REFERENCE NO. 88 OF 1998

PARTIES: Employers in relation to the management of M/s. B.C.C.L. and their workman.

APPEARANCES:

On behalf of the workman	Shri D. Mukherjee, Secretary, B.C. K.U.
On behalf of the employers	Shri D. K. Verma, Advocate.
State	Jharkhand
Industry	Coal.

Dated, Dhanbad, the 12th September, 2003

AWARD

The Government of India Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/595/97 IR(Coal-I), dated, the 24th March, 1998.

SCHEDULE

"Whether the actions of the management of Bhagaband Colliery of M/s. BCCL in dismissing Shri Bindeshwar Dusadh, Miner/Loader from the services of the company w.e.f. 20/22-10-1993 (for serious misconduct under Clause 26-1-11, 26-1-12 and 26-1-29 for the certified Standing orders of the company is justified? If not, to what relief is the concerned workman entitled?"

2. The case of the concerned workman according to written statement submitted by the sponsoring Union on his behalf in brief is as follows:-

The sponsoring union submitted that the concerned workman was a permanent minor loader under the management. They alleged that management without any reason issued a chargesheet to him with malafide intention dt. 2-6-93. The concerned workman submitted his reply to that chargesheet but as his reply according to the management was not satisfactory they conducted a domestic enquiry against him through an enquiry officer appointed by them. They charged that in course of his domestic enquiry the concerned workman was not afforded with full opportunity either to adduce evidence on his part or to cross-examine the management witnesses and for which the said enquiry was conducted in violation to the principle of natural justice. They alleged that over the self same allegation management also dismissed Smt. Nainapati Devi which was challenged before the Tribunal and the Tribunal passed award for her reinstatement in service

setting aside the said order of dismissal. They alleged that the management on the basis of report submitted by the Enquiry Officer not only dismissed the concerned workman from service but also did not pay any heed to the award passed by the Tribunal for his reinstatement in service though his case and the case of Nainapati Devi stood on the same footing. They alleged that order of dismissal of the concerned workman was not only illegal and arbitrary but also it was a gross violation of the principle of natural justice. Accordingly he raised in industrial dispute before the ALC(C) Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication. The sponsoring Union accordingly submitted prayer to pass award directing the management to reinstate the concerned workman in service with full back wages and other consequential relief.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in their written statement on behalf of the concerned workman. They submitted that the concerned workman was appointed at Pootkee colliery on 17-2-79 and his CMPF No. was D/39226. Thereafter on transfer he joined at Bhagaband colliery on 9-4-82. They submitted that the concerned workman declared Nainapati Devi as his wife in the CMPF nomination form. He also declared in his service excerpts that Smt. Nainapati Devi was his wife and relying on the same he claimed LTC, LLTC etc. on behalf of Smt. Nainapati Devi as his wife.

They submitted that the said workman was the son of Ramkhelon Dusadh who was also a workman of Bhagaband area and after his death the concerned workman declared Nainapati Devi as his wife though Nainapati Devi was widow of his elder brother late Bhuneswar Dusadh and got her employment as dependent of his father-in-law Ramkhelon Dusadh. They submitted that on receipt of a complaint they issued chargesheet to the concerned workman as well as Nainapati Devi and after holding departmental enquiry they were dismissed from his service as they were found guilty to the charges.

They submitted that chargesheet dt. 2-6-93 were issued to the concerned workman and Smt. Nainapati Devi under signature of the Project Officer/Agent of Bhagaband colliery who was very much competent to issue the same. The concerned workman gave his reply to the chargesheet but as the reply given was not satisfactory, the Disciplinary Authority decided to hold departmental enquiry against him and appointed Mr. D. B. Singh, Dy. Chief Personnel Manager of P. B. Area as Enquiry Officer and Mr. K.M. Prosad, Personnel Manager, as Presenting Officer to represent the case on behalf of the management. They submitted that in course of hearing of the said proceeding the concerned workman appeared and defended his case though Mr. Arbinda, his co-worker and President, Coal Mines Piece rated workers Association. They submitted that the entire hearing of the domestic enquiry proceeding was held in presence of the concerned workman and his co-worker and full opportunity was given to him to

defend his case. They submitted further that the Enquiry Officer with all fairness and propriety and also maintaining the principle of natural justice conducted in hearing of the enquiry proceeding and after completion of that enquiry submitted his report, holding the concerned workman guilty to the charges brought against him. They submitted that considering the report submitted by the Enquiry Officer, consulting the papers and also the submissions made by the concerned workman the Disciplinary Authority took the decision to dismiss the concerned workman from his service and accordingly he was dismissed from his service for the misconduct committed by him. They categorically denied the fact that the concerned workman was illegally, arbitrarily and violating the principle of natural justice was dismissed from his service. Accordingly they submitted prayer to pass award rejecting the claim of the sponsoring Union for reinstatement of the concerned workman in service setting aside the order of dismissal.

4. The points to be decided in this reference are:—

“Whether the action of the management of Bhagaband Colliery of M/s. BCCL in dismissing Shri Bindeshwar Dusadh, Miner/Leader from the services of the company w.e.f. 20/22-10-1993 (for serious misconduct under clause 26-1-11, 26-1-12 and 26-1-29 of the certified standing orders of the company) is justified? if not, to what relief is concerned workman entitled?”

FINDING WITH REASONS

5. It transpires from the record that before taking up final hearing of this case on merit hearing on preliminary point was taken to consider if the domestic enquiry conducted against the concerned workman was fair, proper and in accordance with the principle of natural justice. That hearing on preliminary point was taken up on 23-7-03 and disposed of in favour of the management to the effect that domestic enquiry conducted against the concerned workman by the Enquiry Officer was fair, proper and in accordance with the principle of natural justice. Accordingly, at this stage there is no relevancy to reopen the said issue again. Here the point for consideration is that if the management have been able to substantiate the charge brought against the concerned workman and if so whether punishment inflicted on him was fair, proper and in accordance with the principle of natural justice. It is also to be considered if the punishment inflicted on the concerned workman can be reconsidered relying on the provision as laid down under Section 11A of the I.D. Act.

6. Considering the facts and circumstances of the case and also considering materials on record I find no dispute to hold that the concerned workman got his appointment as miner/loader on 17-2-79 at Pootkee colliery. After joining his service a Provident fund account was opened and its number was CMPF-D/39226. It is seen that on 9-4-82 he joined at Bhagaband colliery on his transfer from Pootkee colliery. The allegation of the management is that not only in the CMPF record but also in the service excerpts the concerned workman disclosed the name of his wife as Nainapati Devi and claimed

LTC, LLTC etc. on her behalf. They submitted that actually Smt. Nainapati Devi was the wife of Bhuneshwar Dusadh who happened to be his elder brother. It is the contention of the management that Ram Khelon Dusadh was the father of the concerned workman and he was an employee under the management at Bhagaband area. Bhuneshwar Dusadh, predeceased his father. Accordingly after the death of Ram Khelon Dusadh the concerned workman declared Smt. Nainapati Devi as the widow of Bhuneshwar Dusadh i.e. his elder brother and she got her employment as dependent of his father-in-law.

7. The specific allegation of the management is that while concerned workman declared Nainapati Devi as his wife in CMPF record and in his service excerpts and claimed LTC, LLTC in her name and also declared before the management for getting her employment after the death of his father as the widow of his elder brother Bhuneshwar Dusadh. Management submitted that on compassionate ground being dependent on her father-in-law Ram Khelon Dusadh who died in harness employment was given to her.

8. They submitted that on receipt a complaint, they made an enquiry and found that by false personification the concerned workman arranged for employment of Nainapati Devi as widow of his elder brother though actually she was his wife. They alleged that by such dreadful act, the concerned workman not only misappropriated the money of the management but also compelled them to provide her employment which she was not at all entitled to get.

9. It is admitted fact that over such allegation management not only issued chargesheet to the concerned workman but also issued chargesheet to Smt. Nainapati Devi. It is also admitted fact that management on the basis of chargesheet given to them started domestic enquiry against both of them as they were not satisfied with the reply given by them. It is also admitted fact that relying on the report submitted by the Enquiry Officer and also considering all aspects the Disciplinary Authority dismissed the concerned workman and Smt. Nainapati Devi from service. It is seen that thereafter the sponsoring union on their behalf raised industrial dispute conciliation and as the said conciliation proceeding ended in failure Ministry referred the case of Nainapati Devi before CGIT No. 1, Dhanbad and case of this workman before this Tribunal for adjudication. The case of Smt. Nainapati Devi was registered as Ref. case No. 68/90 and learned Tribunal passed the award in her favour with direction to reinstate the concerned workman in service with 50% back wages. The said reference case was disposed of on contest and also on merit. In course of hearing it has been submitted by both sides that on implementation of award the concerned workman Smt. Nainapati Devi has already been reinstated in service. I have considered the award passed by learned Presiding Officer in Ref. case No. 68/90 (Ext. W-1) wherein it has been observed very clearly that Nainapati Devi is the widow of Bhuneshwar Dusadh eldest son of late Ram Khelawan Dusadh and not the wife of the concerned workman. It has also been observed by the learned Presiding Officer that

actually Sunaina Devi is the wife of the concerned workman. Therefore, it is clear that Nainapati Devi widow of Bhuneshwar Dusadh got her service under the management being the dependent of late Ram Khelawan Dusadh i.e. her father-in-law.

10. It is the specific allegation of the management that the concerned workman at the time of employment of Nainapati Devi though disclosed her identity as the widow of his elder brother actually she was his wife and that fact has been established when the C.M.P.F. record and service excerpts claimed Nainapati as his wife. They further alleged that the concerned workman also claimed LTC, LLTC for her claiming his wife. In the award passed by learned Presiding Officer, CGIT No. 1, Dhanbad in Ref. case No. 68/90. It has been exposed clearly that Nainapati Devi is the widow of the eldest brother of the concerned workman. As no subsequent evidence on the part of the management is forthcoming to the effect that the concerned workman subsequently married Nainapati Devi widow of his elder brother there is no scope to hold that she was his wife. Accordingly, the allegation which has been brought against the concerned workman that Nainapati Devi is his wife finds no merit at all.

It is seen that management has brought three fold charges against the concerned workman under clause 26-1-11, 26-1-12 and 26-1-29. The charges are as follows:—

- Clause : 26-1-11 : Theft, fraud or dishonesty in connection with company's business or property.
- 26-1-12 : Giving false information regarding one's particulars for the purpose of employment.
- 26-1-29 : Wilful falsification, defacement or destruction of personal records or any record of the Co.

In view of my discussion above I find no hesitation to say that the management have failed lamentably to establish the charge brought against the concerned workman under clause 26-1-12 of the certified standing Order. Now let me consider how far the management have been able to establish the other two charges brought against the concerned workman under clause 26-1-11 and 26-1-29 of the certified standing order. It has been submitted by the management that the concerned workman in CMPF record declared Nainapati Devi as his wife not only but also claimed LTC, LLTC for Nainapati Devi declaring herself as his wife and thereby not only he exercised fraud upon the management but also misappropriated management's business property. He also submitted false documents in support of his claim. In support of their claim management relied on the option form submitted by the concerned workman for availing LTC in lieu of RRT and LTC advance form marked as Ext. M-7 and M-8. Management also relied on coal mines Provident Fund declaration form and Mines Family Pension Scheme form marked as Ext. M-5 and M-6. On considering these documents I find no dispute to hold that the concerned workman not only declared Nainapati Devi as his wife but also declared her son and daughter as her

son and daughter. It is peculiar to note that while in documents marked as Ext. 7 and 8 age of Nainapati was recorded as 34 years in the documents marked as Ext. M.5 and 6 her age was recorded as 22 years. It is not only from his reply to the chargesheet given by the concerned workman but also from the enquiry report submitted by the Enquiry officer Ext. W-2 and W-3 respectively it transpires that the concerned workman was illiterate and for which he gave his LTI in all the declaration forms. All these forms had been filled up in English by the office staff of the management. But there is no evidence that its contents were read over and explained to the concerned workman. Accordingly there is reason to believe that for an illiterate person it was not possible to know what had been written in these papers. In the reply to the charge sheet given by him the concerned workman rebutted categorically that he did not make any declaration in the C.M.P.F. Nomination form to the effect that Nainapati Devi was his wife. He disclosed that he had no knowledge of this fact till receipt of the service excerpt handed over to him by the management in the year 1987. He disclosed that whenever he came to know this fact he corrected the name of his nominee with the name of his wife, Sunayana devi. He disclosed that his father was an employee of the management and probably for safety and security of his widow daughter in law she arranged for recording her name and the name of her children in the official record when his service was regularised by the management.

11. In the reply he further disclosed that as he was illiterate person the office clerk prepared LTC bills relying on the particulars given in the C.M.P.F. and other official records wherein the name of Nainapati Devi was recorded as his wife. He disclosed that on instruction of the office clerk he put his LTI in the bills without knowing its contents. The enquiry officer in his report observed clearly that after death of the father of the concerned workman he changed the name of his wife in his service excerpt as Sunayana Devi striking out the name of Nainapati Devi. The report further disclosed that the representative of the management has also confirmed that the action of the concerned workman by changing the name of his wife after death of his father was theft and fraud on Company's business. My discussion above clearly shows that Sunayana Devi was the wife of the concerned workman. It has also been established that Nainapati Devi was the widow of his elder brother. When this fact is forthcoming before this Tribunal I have failed to understand how by changing the name of his wife in the service excerpt the concerned workman exercised theft and fraud on the business of the company. The service excerpt was prepared by the management on the basis of particulars recorded in the Form B Register and the said service excerpt was handed over to the workman with their comments for rectification of any entry made therein and in the Form B Register. It is seen that the concerned workman correcting the name of his wife handed over the same to the management for its proper rectification in the Form B Register and for which there is no scope to say that by such rectification he committed any theft or fraud from the company's business.

12. In natural course the question which will crop up is why the name of Nainapati the widow of his elder brother and the name of her children were recorded in different official records of the management. It is not clear if at the time of regularisation of his service the concerned workman was married. If he was married there was no reason to record the name of his sister in law and her children in the official record as his wife and children. It is the contention of the concerned workman that the entries in the official record were filled up by the staff of the management at the instance of his father and as he was illiterate he put his LTI under instruction of the office staff in those papers without knowing its contents as the same were not read over and explained to him before obtaining his LTI therein. He further disclosed that there was no reason to record his name of his sister in law without considering the future security of his wife, he submitted that all these happened without his knowledge as he was an illiterate person. No evidence is forthcoming to the effect that contents of the filled up forms including entries in the Form B Register were only read over and explained to the concerned workman after the same were filled up by the office staff. As such there is sufficient reason to believe that he had no knowledge at all about the contents of the documents in question. Had that not been so he definitely would not insert the name of his wife as Sunayana Devi striking out the name of Nainapati Devi in the service excerpt for proper rectification in the record when the same was served to him by the management in the year 1987. As Nainapati Devi was not his wife there was no reason to consider that he exercised any fraud for getting service of his wife, Sunayana Devi in the name of Nainapati Devi. It is clear that Nainapati Devi and Sunayana Devi are two different women and by relation they were sisters. It is the allegation of the management that the concerned workman placed his claim for L.T.C. in the name of his wife and children who were not at all his wife and children by practising fraud upon the business of the management. The allegation which has been brought is no doubt serious. Before taking into consideration of the facts two aspects are to be looked into. Firstly whether the concerned workman had any knowledge about this fact and secondly if that LTC bill was submitted by him after 1987, i.e. when he rectified the name of his wife therein after getting knowledge of the fact that the name of his sister-in-law and her children had been wrongly recorded in the official records. Intention of the concerned workman here is to be looked into with prime importance. It is to be borne into mind that the concerned workman was an illiterate person and for which it was not possible for him to assess what was written in English in the official records until and unless the contents of the same were read over and explained to him. For illiterate person it was not possible to fill up the official forms in question. Actually the same were filled up by the official staff of the management. Accordingly, obligation was on their part to read over and explained its contents to the illiterate workman but I consider that the office staff ignored to perform that part of duty. Onus absolutely rests on the management to establish that the

concerned workman made declaration in the official form illegally with his full knowledge but I find no hesitation to say that in course of enquiry proceeding the management had failed to substantiate this fact. The enquiry officer came to the finding just relying on the statement of the management's staff ignoring the submission of the concerned workman. The enquiry officer also did not consider if after rectification of his service excerpt as regards to the name of his wife submitted any false bill relating to his claim of L.T.C. after 1987. Management in course of hearing has failed to produce any such paper to show that not only before 1987 but also after 1987 the concerned workman submitted any false bill with a view to defraud the management.

13. After careful consideration of all the facts and circumstances there is sufficient reason to believe that management cannot avoid their responsibility to check the authenticity of the particulars furnished by an illiterate person. As the management have failed to establish that the concerned workman with his active knowledge had committed the mischief he deserves benefit of doubt as regards to the mischief alleged to have been committed by him.

Accordingly, I hold that the management have failed to substantiate the charges brought against the concerned workman beyond all reasonable doubt and for which the order of dismissal passed against him is liable to be set aside on benefit of doubts.

In the result, the following Award is rendered :—

“The action of the management of Bhagabandh Colliery of M/s. BCCL in dismissing Shri Bindeshwar Dusadh, Miner/Loader from the services of the company w.e.f. 20/22-10-1993 (for serious misconduct under clause 26-1-11, 26-1-12 and 26-1-29 of the certified standing orders of the) company is not justified. Consequently, The concerned workman is entitled to be reinstated in his service with 50% back wages from the date of receipt of this reference by this Tribunal with other consequential benefits.”

The management is directed to implement the Award within three months from the date of publication of the Award in the Gazette of India, in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 2003

का. आ. 3141.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II धनबाद के पंचाट (संदर्भ संख्या 215/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-2003 को प्राप्त हुआ था।

[सं० एल- 20012/573/97-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 6th October, 2003

S.O. 3141.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 215/98) of the Central Government Industrial Tribunal/Labour Court, II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 1-10-2003.

[No. L-20012/573/97-IR (C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1) (d) of the I.D. Act, 1947

REFERENCE NO. 215 OF 1998

PARTIES: Employers in relation to the management of Jamadoba Colliery of M/s. Tisco. and their workman.

APPEARANCES:

On behalf of the workman	:	Shri S. Bhar, authorised representative
On behalf of the employer	:	Shri D.K. Verma, Advocate.
State	:	Jharkhand
Industry	:	Coal.

Dated, Dhanbad, the 4th September, 2003

AWARD

The Government of India Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/573/97-IR(C-I), dated, the 30th November, 1998.

SCHEDULE

“Whether the action of management of M/s. Tata Iron and Steel Co. Ltd. in dismissing Shri Ram Palat from services is legal and justified? If not, what relief the concerned workman is entitled to?”

2. The case of the concerned workman according to Written Statement submitted by the sponsoring Union on his behalf in brief is as follows :—

Sponsoring Union in the Written Statement submitted that the concerned workman was appointed as Miner by the management at Jamadoba colliery on 27-10-87. They submitted that in course of doing his job the concerned workman became a mental patient and for which he remained under treatment at Tata Central Hospital, Jamadoba. They submitted that as in course of treatment he developed psychiatric activity leading

to hostile and violent reaction was admitted at Central Institute of Psychiatry, Kanke, Ranchi on 2-2-94 and was discharged on 23-2-94 for declaring him fit to resume his duty. However, the concerned workman was again referred to Central Institute of Psychiatry, Kanke, Ranchi for his further treatment by the management vide letter No. TCH/55/864/94 dt. 1-7-94. After treatment there the concerned workman was released from Central Institute of Psychiatry, Kanke declaring him fit to resume his duty with advice not to allot him night shift duty for atleast three months by the management illegally and arbitrarily violating the principles of natural justice discharged him from his service on medical ground with effect from 25-7-94. Accordingly, the sponsoring Union raised an Industrial dispute which ultimately resulted reference to this Tribunal for adjudication. The sponsoring Union in view of the facts and circumstances stated above submitted their prayer to pass award directing the management to reinstate the concerned workman in service with full back wages.

3. Management on the contrary after filing Written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in their Written statement submitted on behalf of the concerned workman.

They admitting the fact of the concerned workman's appointment as Miner on 21-10-87 at Jamadoba colliery submitted that in course of doing his job it was detected that he was suffering from mental disease and for which he was provided proper treatment at Company's Central Hospital, Jamadoba. Thereafter he was referred to Central Institute of Psychiatry, Kanke for his further treatment. They submitted that the concerned workman was referred to the Medical Board, Central hospital for asserting his medical fitness to perform job as a miner in the colliery. He appeared before the Medical Board on 30-3-94 and after examination Medical Board advised him for further treatment and asked him to appear on 27-4-94. On 27-4-94 he was again examined by the Medical Officer of the said Medical Board, and was advised to take proper treatment and to reappear on 13-7-94. On 13-7-94 he again appeared before the Medical Board for his examination regarding his fitness for performing his original job but after examination the Board observed that he is unfit for his original job.

They submitted that under such situation they could not permit him to work as a miner in the underground mine and for which he was discharged from his service on medical ground with effect from 25-7-94 by letter dt. 22-7-94. They disclosed that R.C.M.S which is a recognised union took up the case of the concerned workman in the Union management meeting held on 21-4-95 at G.M.'s level and requested the management to review the case of the concerned workman and reinstate him on his original job after reassessment of his medical fitness. In response to that request the management asked the concerned workman to appear before the Medical Board on 15-5-95. After his examination the board again opined that the concerned workman not only required further treatment but also was unfit for miner's job. Accordingly, they

communicated the observation of the Medical Board to the recognised Union i. e. R.C.M.S. and also to the concerned workman. The R.C.M.S. accepting the report of the Medical Board did not raise any dispute further. They submitted that neither they dismissed the concerned workman from his service nor they took any arbitrary step violating the principle of natural justice in discharging him from his service. They submitted that the concerned workman was declared medically unfit by the Board on repeated occasion to take up the work of miner in the underground and for which they had no alternative way but to discharge him from service on medical ground. They alleged that knowing fully well of these facts the sponsoring Union has made an attempt to make out this case as a case of dismissal with mala fide motive of gaining foothold in the establishment of the Company knowing fully well that the concerned workman was incapable in performing his normal duties. Accordingly, they submitted prayer to pass award rejecting the claim of the concerned workman.

4. The Points to be decided in this reference are:—

"Whether the action of management of M/s. Tata Iron and Steel Co. Ltd. in dismissing Shri Ram Palat from services is legal and justified? If not, what relief the concerned workman is entitled to."

FINDING WITH REASONS

5. It transpires from the record that the concerned workman declined to adduce any evidence in order to substantiate his claim. On the contrary management examined one witness as MW-1 in support of their claim. Considering the facts disclosed in the pleadings of both sides and also considering the materials on record there is no dispute to hold that the concerned workman was employed as Miner at Jamadoba colliery by the management in the year 1987. It is also admitted fact that the concerned workman developed mental ailment and he was referred to Central Institute of Psychiatry at Kanke for his further treatment on 23-2-94. He remained under treatment there till 23-3-94 and discharged. It is the contention of the sponsoring union that the concerned workman was declared medically fit to resume his normal duties when he was discharged from Central Institute of Psychiatry, Kanke. It has been admitted by the sponsoring Union that again the concerned workman was referred to Central Institute of Psychiatry by the management vide letter No. TCH/55/864/94 dt. 1-7-94 for his further treatment. They disclosed that after receiving treatment there he was again discharged declaring him medically fit for underground work with advice to avoid night shift duty for atleast three months. They alleged that instead of accepting that medical report management relying on the report of the medical board illegally, arbitrarily violating the principle of natural justice discharged him from service with effect from 25-7-94. In course of hearing the sponsoring Union did not consider necessary to submit the discharge certificates issued by the Central Institute of Psychiatry, Kanke wherein they observed that the concerned workman was fit to resume his normal duty for perusal of the Tribunal. Accordingly, I find no scope to verify the veracity of the claim

of the sponsoring Union in this regard.

6. On the contrary from the submission of the management I find quite a different picture. They submitted that after discharge from Central Institute Psychiatry, Kanke the concerned workman was examined by the Medical Board of their Central Hospital at Jamadoba on 30-3-94 to ascertain his fitness to resume his duties. As the report was adverse and also as he required further treatment direction was given to him to reappear on 27-4-94. On 27-4-94 after his medical examination the Board opined the same view and asked him to reappear on 13-7-94. On that day he was finally examined by the medical board regarding his fitness for performing his original job but the said board declared him unfit for original job and again he was referred to Central Institute of Psychiatry, Kanke. They disclosed that after observing the medical report, mental position of the concerned workman they arrived into the decision that he could not be permitted to work as a miner in the underground and for which he was discharged from his service on medical ground with effect from 25-7-94 by letter dt. 22-7-94. Management submitted that thereafter on request of the recognised Union i.e. R.C.M.S. the concerned workman was again examined by the Medical Board on 15-5-95 but again he was declared unfit for miners job.

7. In course of hearing management relied on the reports submitted by the Medical Board after medical examination of the concerned workman. These reports during evidence of MW-1 were marked as Ext. M-3, M-4, M-5, M-6, M-9 and M-10 respectively. I have carefully considered the reports submitted by the medical board and on my careful consideration it transpires that since 1994 till April, 1996 the concerned workman was a patient of manic depressive psychosis. During this period he not only remained under treatment at Central Institute for Psychiatry, Kanke. It transpires clearly from the report of the medical board that the concerned workman not only needed for continuous treatment but also he was declared unfit for miners job.

8. It is seen that management under the circumstances compelled to discharge the concerned workman from his service. The discharge letter issued by the management during evidence was marked as Ext. M-2. Management submitted that after discharge from service they paid of all his dues and in support of his claim they relied on the service sheet of the concerned workman Ext. M-1. Considering this service sheet I find support of the claim of the management relating to payment of all dues to the concerned workman.

9. It is seen that at the request of recognised Union i.e. RCMS the concerned workman was again examined by the Medical Board even after his discharge from service on medical ground. The medical report marked as Ext. M-12 has exposed clearly that he was unfit for the job of miners. The Board also observed that he required regular treatment.

10. It is the contention of the sponsoring Union that the management arbitrarily discharged him from service without giving him opportunity to work as miner though he was declared fit for work by the Medical Officer of Central

Institute of Psychiatry, Kanke. I have already observed above that the sponsoring union though claimed so have failed to substantiate the same by producing the said medical paper. Accordingly, I do not find any merit in this submission. It is seen that the concerned workman was under treatment as psychiatric patient since later part of 1992. He was discharged from his service on medical ground with effect from 25-7-94. Therefore, it is clear that sufficient scope was given to the concerned workman for his recovery. It is seen that management practically was compelled to discharge him from service when the medical board declared him unfit for the job of miner. It is further seen that even after discharge from service management at the request of the recognised union sent the concerned workman to Medical Board for his medical test on 15-5-95. The medical board after his examination declared him again medically unfit for the job of miner. Considering all these aspects there is no scope to say that management with mala fide intention discharged him from service. They explained the nature of the work of miner in the underground. It is practically impracticable to allow a workman to work in the underground miner when it transpires clearly that the said workman was a mental patient. As such after careful consideration of all the facts and circumstances, I have failed to find out any material relying on which it can be said that the management illegally, discharged the concerned workman from his service on medical ground.

Accordingly, the concerned workman is not entitled to get any relief. In the result, the following award is rendered :—

“Whether the action of the management of M/s. Tata Iron and Steel Co. Ltd. in dismissing Shri Ram Palat from services is legal and justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 2003

का. आ. 3142.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II धनबाद के पंचाट (संदर्भ संख्या 300/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-2003 को प्राप्त हुआ था।

[सं० एल- 20012/82/2001-आई आर(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 6th October, 2003

S.O. 3142.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 300/ 2001) of the Central Government Industrial Tribunal/Labour Court, II Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 1-10-2003.

[No. L-20012/82/2001-IR (C-D)]

S.S. GUPTA, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO.2) AT DHANBAD
PRESENT

Shri B. Biswas : Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1) (d)
of the I.D. Act, 1947

REFERENCE NO. 300 OF 2001

PARTIES: Employers in relation to the management
of Kusunda Area of M/s. B.C.C.L. and
their workman.

APPEARANCES:

On behalf of the workman : None.
On behalf of the Employer : Mr. R.N. Ganguly,
Advocate.
State : Jharkhand Industry : Coal.

Dated, Dhanbad, the September, 2003

AWARD

The Government of India, Ministry of Labour in exercise
of the powers conferred on them under Section 10(1)(d) of the
I.D. Act, 1947 has referred the following dispute to this Tribunal
for adjudication vide their Order No. L-20012/82/2001 dated,
the 23rd November, 2001.

SCHEDULE

“KYA JANTA MAZDOOR SANGH KI BHARAT
COKING COAL LIMITED KHAS KUSUNDA
KSHETRA PRABANDHITANTRA SEY MAG KI SHRI
SUBAL PARAMANIK KO SEVA NIVRITI KE
SAMAYA UNKEY KHATE MEY BAKAYA CHUTTIYO
KA CASH BHUGTAN KIYA JAYE NCWW-VI KEY
ANSUAL UNIT EVAM NAYA SANG HAI? YADI HA
TO KARMAKAR KIS LAV KEY PATRA HAI?

2. In this reference neither the concerned workman nor
his representative appeared. However, though the management
side appeared through their learned Advocate did not file
their W.S. It is seen from the record that the instant reference
was received by this Tribunal on 10-12-2001 and since then it
is pending for disposal. As the concerned workman failed to
appear before this Tribunal, registered notices were issued to
the workman side but inspite of the issuance of notices they
failed to appear before this Tribunal. They also did not even
respond to the notices issued by this Tribunal. In natural
course the question will arise what will the fate of the reference
made by the Ministry for its disposal. The reference is made
on the basis of dispute raised by the concerned workman/
union. Naturally responsibility rests with the concerned
workman/union to assist the Court to dispose of the reference
on merit. In view of the decision of the Hon'ble Apex Court
reported in 2002(94) FLR 624 it will not be just and proper to
pass 'No dispute' Award when both the parties remain absent.
There is also no scope to answer the reference on merit in
absence of any W.S. and available documents. There is no
dispute to hold that when any reference is made it is expected

to be disposed on merit but when the parties do not take any
step or do not consider even to file W/S documents such
expectation to dispose of the reference on merit comes to an
end. It is not expected that for years together the Court will
persue the matter suo moto with the expectations for
appearance of the workman inspite of issuance of registered
notices. As per I.D. Act the workman excepting under
provisions of Section 2A is debarred from raising any industrial
dispute. The disputes are mainly raised by the union for their
workman. These unions inspite of receiving notices do not
care to appear before the Court for the interest of the workman
and as a result they have been deprived of getting any justice.
Until and unless the attitude of the union is changed I consider
that this uncalled for situation will persist. Definitely it is the
duty of the Court to dispose of the reference on merit but it
depends on the cooperation of both sides. Here the record
will clearly expose that sufficient opportunities had been given
to the workman/union but yielded no result. This attitude
shows clearly that the workman side is not interested to proceed
with the hearing of the case for disposal on merit.

Under the facts and circumstances, I also do not find
any sufficient reason to drag on the case for an indefinite
period. Accordingly, as there is no scope to dispose of the
reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 2003

का. रा. 3143.— औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसर्जन में, केन्द्रीय सरकार भा.को.को.
लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध
में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II,
धनबाद के पंचाट (संदर्भ संख्या 76/2000) को प्रकाशित करती है, जो
केन्द्रीय सरकार को 1-10-2003 को प्राप्त हुआ था।

[सं० एल- 20012/21/2000-आई. आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 6th October, 2003

S.O. 3143.—In pursuance of Section 17 of the Industrial
Dispute Act, 1947 (14 of 1947), the Central Government hereby
publishes the Award (Ref. No. 76/ 2000) of the Central
Government Industrial Tribunal II Dhanbad now as shown
in the Annexure, in the Industrial Dispute between the
employers in relation to the management of BCCL and their
workman, which was received by the Central Government on
1-10-2003.

[No.L-20012/21/2000-IR (C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO.2) AT DHANBAD
PRESENT

Shri B. Biswas : Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1) (d)
of the I.D. Act., 1947

REFERENCE NO. 76 OF 2000

PARTIES: Employers in relation to the management
of Katras Choitudih Colliery of
M/s. B.C.C.L. and their workman.

APPEARANCES :

On behalf of the workman : None appears.
On behalf of the employers : Mr. D.K. Verma,
Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 9th September, 2003

AWARD

The Government of India Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/21/2000 (C-I), dated, the 27th July, 2000.

SCHEDULE

"Whether the action of the management of Katras Choitudih Colliery under Katras Area of M/s. BCCL in denying to regularise S/Shri Sirajuddin Ansari, Kailash Turi and Mahesh Mondal in Cat. VI and denying to regularise Sri Mumtaz Ansari in Cat. V is justified? If not, to what relief are the concerned workman entitled and from what date?"

2. The case of the concerned workman accordingly to W.S. submitted by the sponsoring Union on their behalf in brief is as follows :—

They submitted that all the concerned workman were permanent time rated workers under the management. In the year 1998 they were picked up by the management for the job of S.D.L. operators and at that time they assured to pay their difference of wages in Cat. VI i.e. S.D.L. Operators and the wages which they were getting in the existing scale of pay. On getting their assurance they started working as S.D.L. operators but inspite of rendering their continuous service for more than 240 days in each year as S.D.L. Operators the management neither regularised them as S.D.L. Operator nor they paid wages to them of Cat. VI from the day of their engagement as S.D.L. Operators. They disclosed that as per N.C.W.A., S.D.L. operators are placed in Cat. VI as it is a highly skilled job. They further disclosed that as per certified standing orders of the management, a workman stands regularised after 6 months of the engagement on such jobs on clear vacancies. As a result they raised an Industrial dispute before the ALC(C) Dhanbad for conciliation. They submitted

that during pendency of the hearing of that conciliation proceeding management of Katras Chaitudih colliery issued an office order arbitrarily placing Sirajuddin Ansari and Mahesh Turi in Cat. V and Cat. IV to Mumtaj Ansari instead of Cat. VI wrongly. In respect of Kailash Turi the management is silent as he continues to get Cat. II wages instead of Cat. VI wages of S.D.L. Operators as per N.C.W.A. They submitted that all the four workers are entitled for Cat. VI wages from the date of engagement of S.D.L. operators from March, 1999 and difference of wages from February, 1998 they alleged that action of the management in refusing to pay Cat. VI wages is highly arbitrary as it has violated the provisions of N.C.W.A.

Accordingly, they submitted prayer to pass award directing the management to pay wages to the concerned workman as per Cat. VI with designation as S.D.L. Operators and payment of difference of wages of Cat. VI and Cat. III/II from the date of engagement as S.D.L operators i.e. from Feb., 1998.

3. Management on the contrary after filing Written Statement cum rejoinder have denied all the claims and allegations which the sponsoring union asserted in their written statement on behalf of the concerned workman. They submitted that the concerned workman initially were working as Prop. Mazdoor in Cat. II and were deployed to help the S.D.L operator and subsequently workman Mumtaz Ansari has been regularised as S.D.L Helper in Cat. IV with effect from 12-5-99. On the contrary Sirajuddin Ansari and two others have been regularised as S.D.L operator in Cat. V with effect from 12-5-99 and such order for regularisation was passed complying the provision of N.C.W.A. They submitted that the demand for regularisation of Sirajuddin Ansari and two others in Cat. VI and regularisation of Mumtaz Ansari in Cat. V on the basis of regularisation of S.D.L operator in another area of the management in Cat. VI finds no basis as regularisation is made according to the Rules of regularisation and procedure of the management and not according to the example of another area. They submitted that as the concerned workman have been regularised properly they are not entitled to get any relief according to their prayer.

4. The points to be decided in this reference are :—

"Whether the action of the management of Katras Choitudih colliery under Katras Area of M/s. BCCL in denying to regularise S/Shri Sirajuddin Ansari, Kailash Turi and Mahesh Mondal in Cat. VI and denying to regularise Sri Mumtaz Ansari in Cat. V is justified? If not, to what relief are the concerned workman entitled and from what date?"

FINDING WITH REASONS

5. It transpires from the record that inspite of filing written statement and written statement-cum-rejoinder by the sponsoring Union and the management at subsequent state i.e. during final hearing of this case neither the sponsoring Union nor the concerned workman appeared and adduced any oral or documentary evidence in order to substantiate their claim.

7. It further transpires that as the sponsoring union/concerned workman have failed to take any step the management also declined to adduce any evidence.

8. Considering the pleadings of both sides I find no dispute to hold that the services of the concerned workman were deployed to help the S.D.L. Operators under the management. Management submitted that workman Mumtaj Ansari was regularised as S.D.L. Helper in Cat. IV with effect from 12-5-99 while Sirajuddin Ansari and others were regularised as S.D.L. Operators in Cat. V with effect from 12-5-99. They disclosed that order for such regularisation was made complying the provisions as laid down in N.C.W.A and for doing so they did not commit any irregularity or illegality. On the contrary referring instances of other area the sponsoring Union in their pleading submitted that the concerned workman ought to have been regularised in Cat. VI as S.D.L. Operator. It is the contention of the management that example as referred to by the sponsoring union cannot be considered as more to be applied in every place violating the provision of N.C.W.A. The sponsoring Union as well as the concerned workman got ample scope to establish such claim, in course of final hearing but they did not consider necessary to do so. They admitted that management regularised Sirajuddin and others in Cat. V, while Mumtaj Ansari in Cat. IV as S.D.L. Operators. The only dispute which stands here is whether the concerned workman will be regularised in Cat. VI or in Cat. V. It is the specific submission of the management that they did not commit any illegality in passing the order in question. Accordingly onus absolutely rests on the sponsoring Union to show that the order for regularisation passed by the management was illegal, arbitrary, against the provision of N.C.W.A. I find no hesitation to say that in spite of getting scope to substantiate their claim the sponsoring Union have failed to avail the opportunity of the same. Facts disclosed in the pleading as cannot be considered as substantive piece of evidence in absence of its corroboration by cogent evidence there is no scope at this juncture to uphold their claim. In absence of cogent evidence on the part of the sponsoring Union I find no scope to say that management passed any illegal order in respective category violating the provision of NCWA and for which they are not entitled to get any relief. In the result, the following Award is rendered :—

“The action of the management of Katras Choitudih Colliery under Katras Area of M/s. BCCL in denying to regularise S/Shri Sirajuddin Ansari, Kailash Turi and Mahesh Mondal in Cat. VI and denying to regularise Sri Mumtaz Ansari in Cat. V. is justified? Consequently, the concerned workman are not entitled to get any relief.”

B. BISWAS, Presiding Officer

आई दिल्ली, 6 अक्टूबर, 2003

का. आ. 3144.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.सि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II,

धनबाद के पंचाट (संदर्भ संख्या 120/97) को प्रकाशित करती है, तो केन्द्रीय सरकार को 1-10-2003 को प्राप्त हुआ था।

[सं. एल-20012/308/96-आई. आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 6th October, 2003

S.O. 3144.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 120/97) of the Central Government Industrial Tribunal/Labour Court II Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of BCCL and their workman, which was received by the Central Government on 1-10-03.

[No. L-20012/308/96-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT: SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1997.

REFERENCE NO. 120 OF 1997

PARTIES:

Employers in relation to the management of M/s. Barora Coal Washery of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Shri R. N. Ganguly, Advocate

State : Jharkhand : Industry : Coal

Dated, Dhanbad, the 3rd September, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/308/96-IR(Coal-I), dated the 6th November, 1997.

SCHEDULE

“Whether the claim of the union that the management had illegally denied employment to the dependant of Smt. Dhaneshwari Kamin under VRS(F) is legal and justified? If so, to what relief is the workman entitled?”

2. The case of the concerned workman according to the Written Statement submitted by the sponsoring Union on his behalf in brief is as follows :—

The sponsoring Union submitted that the management issued a Circular bearing No. BCCL/GM(P)/P5/95-8188-288 dated 12-4-95 inviting applications from female workers for opting voluntary retirement scheme. By the said scheme management assured employment to one male dependent of the female worker if the said female workers tenders resignation in response to their call. They submitted that Smt. Dhaneshwari Kamin in response to that circular of V. R. S. issued by the management submitted her resignation to the management to accept the same and to give employment to her dependant son in her place. They submitted that the said workman submitted all relevant papers in support of her claim for employment of her son within the time fixed by the management. It has been further disclosed that at the time of tendering resignation the said workman was 53 years old. They submitted that after receipt of her resignation letter along with all other papers in relation to her claim for employment of her son the local management processed the same and finding them in order forwarded to BCCL Headquarters for approval in the matter of giving employment to the dependant son of the said worker. They alleged that during the period of operation of the said scheme from April, 1995 to September, 1995 management did not issue any letter of appointment to her son. Even thereafter they did not consider her claim for employment of her son. They alleged that decision of the management was not only illegal and arbitrary but also it violated the principle of natural justice and for which the concerned workman raised an Industrial dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in the Written statement submitted on behalf of the concerned workman. They submitted that a special voluntary retirement scheme for female employees was introduced on 12-4-95 for a short period in order to rationalise/improve the man power structure against their actual requirement for generating a productive labour force against such female employees who are not being gainfully employed. They disclosed that in the said scheme provision was made for giving employment to the dependents as a social security measure when the source of income of the workers family gets dried up suddenly due to acceptance of resignation of the worker. They submitted further that as per clause 14 (III) of the aforesaid scheme any application for voluntary retirement can be rejected by the management and employment may not be given to the dependent without assigning any reason. They disclosed that Smt. Dhaneshwari Kamin submitted application under the said scheme but it was not accepted as per clause 14(III) of the

scheme as they did not consider that she was not employed gainfully. They disclosed that not only the application of Smt. Dhaneshwari Kamin was rejected but also applications submitted by many other workers under this scheme were rejected. They submitted that the concerned workman is still rendering her service under the management gainfully and for which they denied the fact that her application was rejected illegally, arbitrarily and violating the principle of natural justice. They submitted that as they introduce the scheme, the female workers as their right cannot claim employment of their dependents. Accordingly, management submitted their prayer to pass award rejecting the claim of the concerned workman.

4. The points to be decided in this reference are :—

“Whether the claim of the union that the management had illegally denied employment to the dependent of Smt. Dhaneshwari Kamin under VRS(F) is legal and justified? If so, to what relief is the workman entitled?”

5. It transpires from the record that in spite of getting ample opportunities the sponsoring Union did not consider necessary to adduce any material evidence in order to substantiate their claim as per terms of reference. The management as such declined to adduce any evidence on their part. Now considering the facts disclosed in the pleadings of both sides and also considering material on record let me consider if the claim of the concerned workman stands on cogent footing and if so whether she is entitled to get any relief. There is no dispute to hold that the concerned workman was a female employee under the management. It is admitted fact that management by Circular hearing No. BCCL/GM(P)/PS/95-8188-288 dt. 12-4-95 opened a scheme for V.R.S. from female workers and inviting applications to that effect. The purpose of the said scheme was to rationalise/improve the man power structure against the actual requirement in BCCL and for generating a productive labour force against such female employees who are not being gainfully employed. By the said scheme management assured to give employment to one major son of the said female worker if the terms and conditions are fulfilled. However, by introducing clause 14(III) management reserved the right to reject any application for V.R.S. without assigning any reason.

6. According to the said scheme age limit was fixed to 50 years. The scheme remains valid upto 30-6-96. It is the contention of the workman that in response to that Circular issued by the management she submitted her resignation along with other relevant papers with prayer for acceptance of his resignation and to provide employment to her son. She disclosed that within the time limit she submitted that application. She further disclosed that at that relevant time she was 53 years 3 months and 28 days old. She alleged that in spite of fulfilling the terms and conditions as per the said scheme management refused to accept her resignation arbitrarily and violating the principle of natural justice.

7. On the contrary it is the contention of the management that the said V.R. Scheme for the female workers as launched with a view to rationalise/improve the man power structures against the actual requirement and for generating the productive labour force against such female employees who are not being gainfully employed. It is seen that apart from fulfilment of other terms and conditions the consideration of the management was to assess of the female workman's service was productive or not for improving the man power structure I find no dispute to hold that the concerned workman tendered her resignation for acceptance within the time limit fixed by the management. As per the said scheme eligibility ages to tender resignation was fixed at 50 years. It transpires that the concerned workman tendered her resignation at the ages of 53 years. In natural course there was no scope on the part of the management to accept resignation of the concerned workman violating the terms of the scheme. The concerned workman in para-2 of the written statement disclosed that neither she was gainfully employed nor she was going to be gainfully employed. Whether a female worker was gainfully employed or not is to be decided by the management according to the nature of work done by him/her but when the concerned workman claimed that she was not gainfully employed onus was on her to establish such claim particularly when it transpires from the facts disclosed in the written statement of the management that acceptance of resignation of the concerned workman was not considered as service rendered by her was gainfully productive.

8. The management referring clause 14(III) of the V.R. Scheme submitted that they reserved the right not to accept resignation of any workman without assigning any reason. They disclosed that they did not take any arbitrary decision in not accepting the resignation tendered by the concerned workman disclosing that her case was not the solitary one where they refused to accept resignation though the same was submitted in response to V.R. Scheme launched by them. I have carefully considered clause 14(III) of the scheme in question which practically has supported the claim of the management. It transpires that discretion was with the management in the matter acceptance of resignation, submitted by any female workman. As per the said scheme claim of employment to the dependent son related to the acceptance of the resignation of the female worker by the management.

9 Here in the instant case management did not accept resignation of the concerned workman taking into consideration that her service could be gainfully used by them. The scheme does not speak that acceptance of resignation was mandatory. Therefore, onus was on the concerned workman to establish that management illegally did not accept her resignation. Until and unless this fact is established on the part of the concerned workman there is no reasonable ground to uphold her contention. I find no hesitation to say that in spite of getting ample opportunities the sponsoring Union have failed to establish the allegation

that the management illegally and arbitrarily refused to accept resignation of the concerned workman. On the contrary considering the scheme there is sufficient reason to believe that discretion was with the management whose resignation will be accepted or not and for which they were not supposed to give any explanation. Accordingly I do not find any reason to say that management illegally and arbitrarily rejected the claim of the concerned workman.

In the result, the following award is rendered :—

"The claim of the union that the management had illegally denied employment to the dependent of Smt. Dhaneshwari Kamin under VRS(F) is not legal and justified. Consequently, concerned workman is not entitled to get any relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 2003

का. आ. 3145.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इण्डिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण I मुम्बई के पंचाट (संदर्भ संख्या 27/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-2003 को प्राप्त हुआ था।

[सं. एल-11012/7/99-आर्. आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 6th October, 2003

S. O. 3145.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 27/99) of the Central Government Industrial Tribunal/Labour Court-I Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Air India and their workman, which was received by the Central Government on 1-10-2003.

[No. L-11012/7/99-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) MUMBAI

PRESENT: Shri Justice S. C. PANDEY,
Presiding Officer

REFERENCE NO. CGIT-27/1999

PARTIES:

Employers in relation to the management of Air India
AND
Their Workmen

APPEARANCES:

For the Management : Mr. Francis, Adv.
For the Workman : Mr. N. R. Sachdev, Adv.
State : Maharashtra

Mumbai, dated the 18th day of September, 2003

AWRAD

1. This reference made by the Central Govt. to this tribunal under clause (d) of sub-section (1) of Section 10 and Sub-section (2A) thereof of the Industrial Disputes Act, 1947 (the Act for short) for resolving the industrial dispute between Air India Ltd. (the company for short) and Mr. S. V. More (the workman for short). The terms of reference are as follows :

“क्या एअर इण्डिया के प्रबंधन द्वारा दि. 6-4-94 से श्री एस. वी. मोरे, क्लीनर की सेवाएं बर्खास्त करना न्यायोचित एवं सही है ? यदि नहीं तो कर्मकार किस राहत के पात्र हैं ?”

2. The workman was employed as Cleaner with the company. During the pendency of this reference S. V. More died on 02-12-98. His wife Smt. Parvati Shankar More was brought on record. It is she who contested the reference.

3. This tribunal gave the part award dated 08th October, 2002 whereby this tribunal set aside the enquiry proceedings held against the workman. The company was given an opportunity to lead evidence for substantiating the charges against the workman.

It is alleged in the written statement of the company that workman remained absent without leave for 48 days in September, October, November 1992. The paragraph 1 of the written statement gives the following details. The workman remained absent without permission during the following period :

Month	Dates	No. of days
September 1992	23rd to 30th	08
October 1992	1st to 31st	31
November 1992	1st to 9th	09

The above act on the part of the workman constituted misconduct under Model Standing Orders and the Workman was, therefore, charge-sheeted vide letter No. CCBS/C-2A/735 dated November 9/17, 1992. The charges were as follows :

- (i) Wilful insubordination of lawful & reasonable order of his superior.
- (ii) Habitual absence without leave.
- (iii) Act subversive of discipline.

The workman was accordingly served with charge sheet 9/17 November, 1992, charging him with (i) Wilful insubordination of lawful and reasonable order of his superior, (ii) habitual absence without leave, (iii) Act subversive of discipline. The workman was also served with another charge sheet dated 21st September, 1992 for his absence for 297 days between November 1992 to September 1993.

In the rejoinder filed by his legal representative Smt. Parvati Shankar More it has been denied that the company has committed a misconduct.

6. The company has filed the affidavits of two (i) Shri P.K. Rajeevan (ii) Mrs. A.K. Menon to substantiate the charges framed against the workman. Both these witnesses were cross examined on behalf of the legal representative of the workman. Thereafter, both the parties requested the case be fixed for arguments.

7. Mr. Rajeevan was examined to prove that workman remained absent for 48 days between September 1992 to November 1992 without permission. He filed document M1 showing that workman remained absent for 8 days in September, 31 days October and 9 days in November 92 without permission. It was admitted by this witness that the workman was having 91½ days of PL and 5 days of sick leave to his credit. He stated that his statement to the effect that workman did not have any leave to his credit was wrongly recorded during the course of domestic enquiry. This witness specifically says that this leave credit was adjusted against his absence after the charge sheet was issued. Mrs. A.K. Menon also deposed about absence of workman for 48 days between September 1992 to November 1992. She proved three letters dated 01-10-92, 22-10-92 and Nov. 16, 1992. These letters that Deptt. of Catering Cabin Service had informed Time office about the absence of S. V. More. All that is proved is that the workman was absent. However, there is nothing in record to show if any communication was given to workman by time office. Once Rajeevan says in his evidence his absence for 48 days was adjusted against the leave available to his credit after issuance of charges sheet there was question of any charges being proved against the workman. He cannot be charged with habitual absence when his absence of 48 days adjusted against leave of 91½ days plus 5 days sick leave to his credit. There is no question of wilful insubordination or any act subversive of discipline when company itself credited 48 days of absence against the leave available to his credit.

8. No evidence was led before this tribunal regarding his absence for 197 days. The company could have lead oral evidence to substantiate the charges apart from admission. This tribunal cannot rely on any evidence led in the enquiry. Even there is no evidence led to show that the workman had made any voluntary statement confessing to the charges.

9. In view of this matter this tribunal comes to the conclusion that the order of dismissal dated 6-4-94 dismissing Shri S. V. More, from the services of the company cannot be sustained. It is hereby set aside. He shall be deemed to be in service from the date of his dismissal to the date of his death. His legal representative Smt. parvati More shall be entitled to receive the back wages from 06-2-94 to 02-12-98. The company shall also pay her all his dues to his legal representative Smt. parvati S. More according to rules as if her husband was in service from 03-2-1984 to 02-12-98. No costs. Accordingly, this reference is answered by stating that the order dated 06-4-94 was

illegal and the widow of the workman is entitled to relief as directed by me.

10. Before parting with this reference, this Tribunal state that an attempt was made during the pendency of this reference to give opportunity to the parties to settle the dispute out of court. Smt. Parvati Shankar More made a representation to the General Manager, Air India HRD Dept. dated 31-3-2003 for compassionate appointment to her or to her son Kiran More. She was willing to give up her monetary claims. It is regrettable that this settlement out of Court did not transpire. Nothing will please the Presiding Officer of this tribunal a settlement is reached between the parties even after passing of this award.

This aside, however is not part of this award.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 2003

का. आ. 3146.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संलग्न नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण बीकानेर के पंचाट (संदर्भ संख्या 2/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-10-2003 को प्राप्त हुआ था।

[सं. एल-12011/84/2000-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 6th October, 2003

S. O. 3146.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/2000) of the Industrial Tribunal Bikaner as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Bank of Baroda and their workman, which was received by the Central Government on 3-10-03.

[No. L-12011/84/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

अनुबन्ध

औद्योगिक विवाद अधिकरण, बीकानेर

केन्द्रीय औद्यो. विवाद प्रसंग सं. 2 सन् 2000

सांवरमल कटारिया पुत्र श्री बृजलाल कटारिया, निवासी चूरू

जरिये श्री भारतभूषण आर्य, जनरल सेक्रेटरी एवम् अधिकृत प्रतिनिधि
प्रार्थी बीकानेर डिविजन ट्रेड यूनियन काउन्सिल, 1-खजांची बिल्डिंग,
बीकानेर ...प्रार्थी/श्रमिक

विरुद्ध

शाखा मैनेजर, बैंक ऑफ बड़ौदा, चूरू जिला चूरू

...अप्रार्थी/श्रमिक

प्रसंग अर्नात धारा 10(1)(घ), औद्योगिक विवाद अधिनियम,
1947 न्यायधीश-श्री के. एल. माथुर, आर.एच.जे.एस.

उपस्थिति :—

(1) श्री भारतभूषण आर्य, श्रमिक प्रतिनिधि, प्रार्थी के लिए

(2) श्री एच. के. महोबिया, अभिभावक, अप्रार्थी नियोजक के लिये

अधिनिर्णय

दिनांक 27 फरवरी, 2003

श्रम मंत्रालय, भारत सरकार ने “औद्योगिक विवाद अधिनियम, 1947” (जिसे आगे चलकर केवल अधिनियम कहा जायेगा) के अधीन जारी अधिसूचना क्रमांक एल.-12011/84/2000 दिनांक 31-7-2000 के द्वारा प्रेषित इस प्रसंग के अन्तर्गत निम्न विवाद अधिनिर्णयार्थ इस अधिकरण में भेजा था :

“Whether the action of the management of Bank of Baroda in not considering the service rendered by Shri Sanwarmal Kataria for his absorption in the Bank and instead terminating him from service in December, 1990 is just and proper? If so, what relief the workman is entitled to?”

2. उक्त प्रसंग के प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया गया, दोनों पक्षकारों द्वारा अपने-अपने लिखित अभिवचन पेश किये गये हैं अर्थात् प्रार्थी सांवरमल (जिसे आगे चलकर केवल श्रमिक कहा गया है) की ओर से प्रस्तुत क्लेम विवरण का जबाब अप्रार्थी नियोजक द्वारा दिया गया है।

3. प्रार्थी, श्रमिक सांवरमल द्वारा प्रस्तुत क्लेम विवरण में अंकित तथ्य संक्षेप में इस प्रकार है कि प्रार्थी की प्रथम नियुक्ति चतुर्थ श्रेणी कर्मचारी के पद पर 12-4-82 को अप्रार्थी बैंक ऑफ बड़ौदा के शाखा कार्यालय चूरू में हुई थी जहाँ उसने 12-4-82 से दिसम्बर 1990 तक निरन्तर कार्यरत रहकर सेवायें की थी इस दौरान उसकी सेवा में कोई व्यवधान, गैरहाजरी तथा अवकाश भी नहीं रहा, अप्रार्थी ने माह दिसम्बर के अंत में प्रार्थी को नितान्त अवैधानिक रूप से सेवा मुक्त कर दिया जिसका विवाद समझौता वार्ता में असफल रहने पर केन्द्रीय सरकार ने यह विवाद इस न्यायालय को न्यायिक निर्णय हेतु प्रेषित किया है, प्रार्थी के अनुसार दिनांक 31-12-90 को अप्रार्थी ने अपने जबानी आदेश से उसे सेवा मुक्त कर दिया और सेवा मुक्ति के पूर्व कोई ‘सूचना’, नोटिस या नोटिस वेतन तथा अन्य कोई राशि का भुगतान नहीं किया गया और अप्रार्थी ने उसकी सेवामुक्ति करते समय अधिनियम की धारा 25-बी, एफ जी एच का स्पष्ट उल्लंघन किया है और उसे वरिष्ठता का लाभ नहीं दिया और कोई वरिष्ठता सूची का प्रकाशन नहीं किया, 25-एफ के अन्तर्गत कोई मुआवजा राशि नहीं दी और न ही सक्षम सरकार को इसकी सूचना दी, प्रथम आये अंत में जाय के सिद्धान्त की पालना भी नहीं की गयी और वरिष्ठता का ध्यान रखे बिना उससे कनिष्ठ कर्मचारियों को काम पर रखे रखा और बाद में प्रार्थी को न बुलाकर नये लोगों की भर्ती कर ली। अंत में सेवामुक्ति आदेश निरस्त करके पुनः सभी लाभों सहित वेतन बहाल करने की प्रार्थना की गयी है।

4. अप्रार्थी नियोजक द्वारा प्रस्तुत जवाब में प्रथमतः इस प्रकार की प्रारंभिक आपत्तियाँ की गयीं की बीकानेर डिविजन ट्रेड यूनियन

काउन्सिल, बैंकिंग व्यवसाय/उद्योग से सम्बन्धित ट्रेड यूनियन नहीं है और उसको प्रार्थी के विवाद में प्रतिनिधित्व करने का अधिकार प्राप्त नहीं है, प्रार्थी एवम् अप्रार्थी के मध्य श्रमिक-नियोजक के सम्बन्ध नहीं है, सांवरमल का नियोजन कभी भी निर्धारित प्रक्रिया से नहीं होने के कारण उसे कोई नियोजन में रहने का अधिकार नहीं है और वह कोई अनुतोष इस न्यायालय से प्राप्त करने का अधिकारी नहीं है, क्लेम के समर्थन में कोई दस्तावेज पेश नहीं किया गया है, विवाद में सक्षम अधिकारी को पक्षकार नहीं बनाया गया है और शाखा प्रबन्धक चतुर्थ श्रेणी को नियोजन करने के लिये सक्षम नहीं है रैफरेन्स बैड इन लॉ है व विधि अनुसार चलने योग्य नहीं है। प्रकरण में प्रमुख तथ्यों अर्थात् प्रार्थी को 12-4-82 को अप्रार्थी के अन्तर्गत चतुर्थ श्रेणी कर्मचारी के पद पर नियुक्त करने, 12-4-82 से दिसम्बर 90 तक निरन्तर कार्यरत रहने के तथ्यों को अस्वीकार करते हुए 31-12-90 को जबानी आदेश से सेवामुक्त करना भी अस्वीकार किया है। अप्रार्थी का जवाब है कि प्रार्थी को उसके द्वारा न तो सेवामुक्त किया गया और ना ही वह सेवा में था, अधिनियम की धारा 25-एफ के प्रावधान इस मामले में लागू नहीं होते हैं, जब छंटनी ही नहीं की गयी तो सक्षम सरकार को सूचना भेजने का प्रश्न ही नहीं है। प्रार्थी ने सभी बातें तोड़-मरोड़ कर प्रस्तुत की हैं। अतिरिक्त आपत्तियों में भी अंकित किया गया कि प्रार्थी की ओर से एक भी व्यक्ति का नाम उल्लेखित नहीं किया गया है जिसको प्रार्थी स्वयं से कनिष्ठ कहता है या जिसके आधार पर वह लाभ प्राप्त करना चाहता है, प्रार्थी के मामले में निर्धारित प्रक्रिया अपनाते हुए उसे कोई नियुक्ति नहीं दी गयी अतः उसे नियोजन का कोई अधिकार प्राप्त नहीं है, शाखा प्रबन्धक चतुर्थ श्रेणी कर्मचारी के नियोजन के लिये सक्षम व्यक्ति नहीं है, प्रार्थी ने किसी भी एक वर्ष में 240 दिन लगातार कार्य नहीं किया है। अतिरिक्त कार्य के लिये या किसी के अवकाश पर जाने के समय निश्चित अल्प समय के लिये अस्थायी रूप से कार्य का मौखिक ठेका विशेष प्रयोजन से देकर कार्य करवा लिया जाता है और इस प्रकार का कार्य करने वाले को नियोजन का अधिकार नहीं होता है, प्रार्थी स्वच्छ हाथों से न्यायालय के समक्ष नहीं आया है, प्रार्थी ने सितम्बर 82 के बाद एक दिन भी कभी भी अप्रार्थी के यहाँ कार्य नहीं किया है, प्रार्थी ने यह तथ्य छुपाया है कि उसने भिन्न-2 कार्य के लिये एक निश्चित अवधि के लिये अल्प समय के लिये ठेके पर कार्य किया है और उसे कार्य के अनुसार भुगतान किया जाता था, उसके कार्य दिवस पर कोई पाबन्दी नहीं थी, कई बार वह अपना कार्य करने के लिये अपने रिश्तेदार, मित्र को भी भेज देता था और सौंपे गये कार्य के लिये कार्य दिवस की गणना भी संभव नहीं थी वह तो कभी आधा घंटा - कभी एक घण्टा-दो घण्टा ही कार्य करता था उसके कार्य की अवधि जवाब द्वा. मद सं. 25 में 12-4-82 से 30-9-82 तक की दर्शायी गयी है, प्रार्थी अन्यत्र अधिक आर्थिक लाभ प्राप्त होने पर अतिरिक्त कार्य के लिये भी आना बन्द हो गया और 24-9-82 के बाद कभी कार्य करने आया ही नहीं, प्रार्थी ने अन्यत्र नौकरी के प्रयोजन से असत्य आधारों पर गलत रूप से प्रमाणपत्र जारी करवाये हैं और असल के अभाव में अप्रार्थी बैंक उनकी जाँच भी नहीं कर सका, प्रार्थी के कृत्यों से बैंक को उस पर भरोसा भी नहीं रहा, 1982 में अंतिम बार कार्य करने के 14 वर्ष बाद समझौता अधिकारी के समक्ष विवाद उठाया है स्वयं प्रार्थी को इसकी जानकारी थी कि बैंक में नियोजन हेतु क्षेत्रीय या

आंचलिक अधिकारी ही सक्षम अधिकारी है, सांवरमल कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

5. साक्ष्य का अवसर देने पर व पर्याप्त अवसर लेने के बावजूद भी अपने क्लेम समर्थन में किसी प्रकार की कोई साक्ष्य प्रस्तुत नहीं की तो उसकी साक्ष्य का अवसर दिनांक 17-1-2003 के आदेश से बन्द की गयी, इस प्रकरण पर अप्रार्थी पक्ष द्वारा कोई साक्ष्य पेश करना नहीं चाहा गया है।

6. बहस सुनी गयी और पत्रावली का अवलोकन किया गया। हमारे समक्ष लंबित इस प्रसंग के निस्तारण के लिये प्रमुख रूप से विचारणीय प्रश्न यही है कि क्या प्रबन्धन बैंक ऑफ इंडिया द्वारा प्रार्थी सांवरमल को दिसम्बर 1990 से सेवा पृथक करना उचित एवम् वैध है यदि नहीं तो प्रार्थी क्या राहत प्राप्त करने का अधिकारी है।

7. विद्वान पक्षकारों की बहस एवम् पत्रावली के अवलोकन से हम देखते हैं कि प्रार्थी पक्ष को पर्याप्त अवसर दिये जाने के बावजूद भी किसी प्रकार की कोई साक्ष्य प्रस्तुत नहीं की गयी है जबकि प्रार्थी द्वारा प्रस्तुत क्लेम विवरण में वर्णित प्रमुख तथ्यों अर्थात् उसके द्वारा 12-4-82 से दिसम्बर 90 तक अप्रार्थी के अधीन निरन्तर कार्यरत रहने, 12-4-82 को अप्रार्थी द्वारा नियुक्त करने एवम् सन् 90 में 31-12-90 को जबानी आदेश से सेवामुक्त करने आदि सभी तथ्यों को अप्रार्थी नियोजक ने जवाब दावे में अस्वीकार किया है इन हालात में प्रार्थी श्रमिक को ही यह प्रमाणित करना था कि उसने अप्रार्थी बैंक के अन्तर्गत 12-4-82 से दिसम्बर 90 तक निरन्तर कार्य किया और 31-12-90 को उसे अवैध रूप से अधिनियम की धारा 25-एफ जी एच की अवहेलना करते हुए सेवामुक्त किया गया हो। इन हालात में प्रार्थी पक्ष की किसी भी साक्ष्य से यह प्रमाणित नहीं किया है कि प्रार्थी को अप्रार्थी द्वारा 12-4-82 को नियुक्त किया गया और 31-12-90 को सेवामुक्त किया गया, जब सेवामुक्त करना ही प्रमाणित नहीं होता है तो उसकी वैधता के सम्बन्ध में कोई विपत्ती नहीं की जा सकती परिणामतः प्रार्थी श्रमिक अप्रार्थी बैंक से कोई राहत व राशि प्राप्त करने का अधिकारी नहीं है।

8. अतः केन्द्रीय सरकार द्वारा प्रेषित इस प्रसंग को उत्तरित करते हुए यह पंचाट इस प्रकार से पारित किया जाता है कि प्रार्थी को दिसम्बर 90 में सेवामुक्त करना प्रमाणित नहीं हुआ है, जब प्रार्थी की सेवामुक्ति ही प्रमाणित नहीं हुई है तो उसकी वैधता एवम् औचित्यता के बारे में कोई टिप्पणी नहीं की जा सकती। परिणामतः प्रार्थी श्रमिक सांवरमल अप्रार्थी बैंक से किसी प्रकार की कोई राहत व राशि प्राप्त करने का अधिकारी नहीं है।

उक्त अधिनिर्णय अधिनियम की धारा 17(1) के अन्तर्गत केन्द्रीय सरकार को प्रकाशनार्थ भेजा जावे।

9. आज्ञा आज दिनांक 27-2-2003 को विद्वत न्यायालय में सुनाई गई।

के. एल. माथुर, न्यायाधीश

नई दिल्ली, 7 अक्टूबर, 2003

का. आ. 3147.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑयल एण्ड नैचुरल गैस कॉर्पो. लि. के प्रबंधन के संबंध में नियोजित और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई नं. 2 के पंचाट (संदर्भ संख्या 188/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-8-2003 को प्राप्त हुआ था।

[सं. एल-30012/26/99-आई. आर. (विविध)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 7th October, 2003

S. O. 3147.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 188/99) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Oil & Natural Gas Corporation Ltd. and their workman, which was received by the Central Government on 22-8-2003.

[No. L-30012/26/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

S. N. Saundankar
Presiding Officer

REFERENCE NO. CGIT-2/188 of 1999

EMPLOYERS IN RELATION TO THE MANAGEMENT OF OIL & NATURAL GAS CORPORATION LIMITED

The Regional Director (MRBC),
Oil & Natural Gas Corporation Limited,
Vasundhara Bhawan, Bandra (E),
MUMBAI-400051.

V/s.

THEIR WORKMEN

The Secretary General,
Petroleum Employees Union,
Tel-Rasayan Bhawan,
Tilak Road, Dadar
MUMBAI-400014.

APPEARANCES:

FOR THE EMPLOYER : Mr. G. D. Talreja,
Representative.

FOR THE WORKMEN : Mr. Jaiprakash Sawant,
Advocate.

Mumbai, dated 6th June, 2003.

AWARD

PART-II

By the Interim Award dated 20-2-2002 this Tribunal held that the domestic inquiry conducted against the workman Kamat was as per the Principles of Natural Justice and the findings of the Inquiry Officer are not perverse. Consequently under Section 11A of the Industrial Disputes Act this Tribunal has to consider whether the punishment of termination imposed on the workman is legal and justified in the context of the action of the management.

2. Workman Kamat who was working as Cleaner Grade-II in the service of the company was terminated w.e.f. 27-6-1994 on holding domestic inquiry for unauthorised absenteeism from 16-8-1991 to 14-8-1992 and the said charge found proved. It is the contention of workman that he was sick and therefore he could not attend the duty during the above said period and that he was not allowed to join the duty later on. On the other hand management's contention is that workman remained absent without intimation disrupting the smooth working of Transport Section which amount to misconduct under the Discipline and Appeal Rules, 1976 for which the punishment of termination is adequate which has been imposed on the workman. It is further contended that the past record of the workman was blemished for which he was punished with stoppage of five increments for his absence and that a penal interest was recovered for non-utilisation of house loan amount. It is contended that considering the past record, length of service and the gravity of proved charge, the punishment imposed is proportionate.

3. On the quantum of punishment workman Kamat filed his affidavit in lieu of Examination in Chief (Exhibit-29) and closed evidence vide purshis (Exhibit-34) and in rebuttal, Manager of the company Mr. Bhatti filed affidavit (Exhibit-36) and closed oral evidence vide purshis (Exhibit-40).

4. Workman filed written submission (Exhibit-43) and the management (Exhibit-44). On going through the record, written submission and hearing the Learned Counsels, I record my findings on the following issues for the reasons mentioned below :

Issues	Findings
3. Whether the action of the management of ONGC Ltd. in terminating the services of C.D. Kamat w.e.f. 27/6/1994 is legal and justified ?	Action is not legal and proper.
4. If not, to what relief the workman is entitled to ?	As per order below.

REASONS

5. So far power under section 11-A is concerned Their Lordship of Supreme Court in Mithilesh Singh V/s. Union of India & Ors. 2003 SCC L&S 271 clearly observed :

"the scope of interference with punishment awarded by Disciplinary Authority under section 11-A of the

Industrial Dispute Act is very limited and unless the punishment appears to be shockingly disproportionate, the court cannot interfere with the same”.

It is further observed by the Hon'ble Apex Court that it is for the employee concerned to show how the penalty was disproportionate to the proved charges. In Regional Manager, U.P. SRTC, Etawah & Ors. V/s. Hoti Lal and Anr. 2003 SCC (L & S) 363 Their Lordships observed:

“It needs to be emphasized that the court or tribunal while dealing with the quantum of punishment has to record reasons as to why it is felt that the punishment was not commensurate with the proved charges. As has been highlighted in several cases to which reference has been made above, the scope for interference is very limited and restricted to exceptional cases in the indicated circumstances. Unfortunately, in the present case as the quoted extracts of the High Court's order would go to show, no reasons whatsoever have been indicated as to why the punishment was considered disproportionate. Reasons are live links between the mind of the decision taken to the controversy in question and the decision or conclusion arrived at. Failure to give reasons amounts to denial of justice. A mere statement that it is disproportionate would not suffice. A party appearing before a court, as to what it is that the court is addressing its mind. It is not only the amount involved but the mental set-up, the type of duty performed and similar relevant circumstances which go into the decision-making process while considering whether the punishment is proportionate or disproportionate. If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that background, conclusions of the Division Bench of the High Court do not appear to be proper. We set aside the same and restore order of the learned Single Judge upholding the order of dismissal.”

6. As stated above, in the domestic inquiry workman Kamat was found guilty for unauthorised absence from 16-8-1991 to 14-8-1992. Workman in his cross-examination para 9 admits that he had not sent a single letter within this period of one year to the Company. He however had submitted medical certificate on his illness and that he was found fit for work as per the certificate issued by Nair

Hospital which finds place in the inquiry report dated 23-10-1992 pg. 11-14/Exhibit-12. It is not that workman was not sick. It is settled position of law that penalty imposed must commensurate with the gravity of offence charged and that the Industrial Tribunal should be very careful before it interferes with the order made by the management in discharge of their Managerial functions. It is seen from the record workman was ill during the material period however he failed to inform the same to the company for which the punishment of termination imposed upon the workman to my view is rather disproportionate. At this juncture, the Learned Representative Mr. Talreja for the management company inviting attention to the past record submits that admittedly workman was punished for his earlier absence and that because of his absence, the smooth working of the Transport Section was disturbed and therefore severe punishment is warranted. Looking the period of his unauthorised absence i.e., 16-8-1991 to 14-8-1992 and even considering the past record, the fact that he put about 11 years of service, he is of advanced age and as seen from the record he was facing family disputes in the light of the decision supra, to my view, punishment of termination is rather harsh, disproportionate and that it needs to be interfered with under the provisions of Section 11-A of the Industrial Disputes Act and that the reduction to the lowest grade i.e. Cleaner Grade-III w.e.f. 27-6-1994 without back wages would be the adequate and proper punishment instead of termination and therefore the same needs to be imposed. Consequently workman will have to be reinstated however without back wages. Issue Nos. 3 & 4 are answered accordingly and hence the order:

ORDER

The action of the management of ONGC Ltd. in terminating the services of Mr. Kamat, Cleaner Grade-II w.e.f. 27-6-1994 is harsh and disproportionate therefore not legal and justified and that punishment of reduction to the lowest grade i.e. Cleaner Grade-III is adequate and the same is imposed upon him instead punishment of termination. Consequently management is directed to reinstate the workman Kamat in service however without any back wages.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 2003

का. आ. 3148.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय अरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-2003 को प्राप्त हुआ था।

[सं. एल-40012/61/2001-आई. आर.(डी यू.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 7th October, 2003

S. O. 3148.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Labour Court, Arnakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Deptt. of Post and their workman, which was received by the Central Government on 7-10-2003.

[No. L-40012/61/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(IN THE LABOUR COURT, ERNAKULAM)

(Thursday the 31st day of July, 2003)

PRESENT: Smt. N. Thulasi Bai, B.A.L.L.B.,
Presiding Officer

Industrial Dispute No. 1 of 2002 (Central)

BETWEEN:

The Sub Divisional Inspector of Post Offices, Cherthala,
Sub Division, Cherthala.

And

The workman of the above concern Sri. K.K. Shiji, EDDA,
Pallipuram Post Office, Cherthala - 688541.

REPRESENTATIONS:

Sri. V.J. Joseph,
Advocate,
I.S. Press Road,
Ernakulam.

.. For Management

Sri. P. C. Sebastian,
Advocate
Layam Square,
Kochi - 11.

.. For Workman

AWRAD

This reference was made by the Central Government as per Order No. L-40012/61/2001 IR(DU) dated 31-5-2001. The dispute is between the Sub Divisional Inspector of Post Offices, Cherthala Sub Division and their workmen Sri. K. K. Shiji Mon. The dispute referred is:

“Whether the action of the Sub Divisional Inspector of Post Office, Cherthala in terminating Sri. K.K. Shiji, EDDA, Pallipuram Post office in Cherthala Sub Division from the service with effect from

12-1-2000 is just, fair and legal. If not, to what relief the workman is entitled?”

2. On receipt of notices issued from this court the workman and management appeared through counsel.

3. The workman filed a claim statement raising the following Claims:— He was working as Extra Departmental Delivery Agent (EDDA) at Pallipuram post office under the administrative control of Sub Divisional Inspector of post office, Cherthala w.e.f. 22-2-99. His appointment was against a clear vacancy caused by the promotion of Sri. V.N. Viswanathan, the regular incumbent of that post. Though no formal appointment order was issued the workman allowed to work continuously and to draw monthly pay and allowances till 12-1-2000 on which date he was summarily terminated. He was having more than 240 days service in the year immediately preceding the date of termination. The postal department is an industry and the ED Agent is a workman under the provisions of the Industrial Disputes Act. As the service was terminated without any notice, notice pay or compensation it is violation of the provisions of section 25 F of the Industrial Dispute Act. So he prays for reinstatement into service with backwages and continuity

4. Management filed written statement raising the following contentions:— The claim of the applicant is not maintainable either in law or on facts. The postal department is not an industry thereby the Industrial Disputes Act has no application in the present case. The applicant worked as a substitute of Sri. Viswanathan, Extra Departmental Delivery Agent (EDDA) Pallipuram during his period of leave without allowance from 22-2-99 to 16-8-99 at the personal risk and responsibility of the former. The post of EDDA, Pallipuram became vacant w.e.f. 17-8-99 due to the promotion of the regular incumbent. As it was not possible to make regular appointment to the post immediately, the Sub Divisional Inspector, Cherthala appointed the petitioner provisionally and appointment order was issued in the prescribed form. It was clearly stated in the order that the provisional appointment would be terminated when the regular appointment is made and the right to terminate the provisional appointment at any time before the period mentioned in the appointment order without notice and without assigning any reason was also reserved. In anticipation of the vacancy the Sub Divisional Inspector has informed the vacancy to the Employment Exchange and open notification was also issued inviting application for the post of EDDA, Pallipuram on 6-7-1999. The last date for receiving application was 26-7-99, 9 candidates were sponsored by the Employment Exchange and 47 applications were received as per the open notification including that of the petitioner. The applicant could not be short listed as the marks secured by him in the S.S.L.C. examination was very low. In the meantime the applicant filed O.A. 906/99 before the Central

Administrative Tribunal, Ernakulam and as per the interim order in that case the applicant was also interviewed on 6-9-99. The case was finally disposed on 3-11-99 directing for selection and appointment as per the rules, rulings and instructions on the subject. On the basis of the interview another meritorious candidate was selected for the post, but he also could not be appointed for administrative reasons. The post was filled by transfer of another ED Agent on 12-1-2000 terminating the provisional appointment of the applicant. The applicant was working as EDDA at Pallipuram post office w.e.f. 22-2-99 to 12-1-2000 thereby he had completed a continuous service of more than 240 days is not correct. So Section 25 F and 25 G of the Industrial Disputes Act are not applicable in this case. So the management prays for passing an award in its favour.

4. No rejoinder was filed by the workman. Evidence adduced by the workman which consists of his oral evidence as WW1 and Exts. W1 and W2. No oral or documentary evidence was adduced from the management's side though the workman was cross examined by the management's counsel.

5. Thus the points arise for determination are :—

1. Whether the reference is maintainable ?
2. Whether the action of the management in terminating the service of Sri. K. K. Shiji, EDDA, Pallipuram post office from service w.e.f. 12-1-2000 is just, fair and legal ?
3. The relief if any due to the workman ?

6. **Point No. 1 :** This reference is made by the Central Government for considering the legality of the termination of Sri K. K. Shiji, EDDA, Pallipuram post office w.e.f. 12-1-2000. According to the employee the postal department is an industry and he is a workman coming within the purview of the provisions of Industrial Disputes Act thereby the procedure envisages in Section 25 F would have been followed before his termination.

7. In the written statement filed by the management it disputes the very maintainability of the reference on the ground that the provisions of the Industrial Disputes Act are not applicable in respect of the termination by the postal department since postal department is not industry and the employee is not a workman. But it is settled by the decision of the Honourable Supreme Court in General Manager, Telecom Vs. A. Sreenivasa Rao (1997) 8 S.C.C. 767, in which Bangalore Water Supply case (1978) 2 S.C.C. 213 rendered by seven Judges Bench of the Honourable Supreme Court, has been followed, that the postal department is an industry within the ambit of the Industrial Disputes Act. So also it is evident from the observation of the Honourable Supreme Court in the decision rendered in the Bangalore Water Supply case that "merely because

certain categories of employees are governed by statutory Rules made under Article 309 of the constitution or otherwise they will not automatically be taken out of the purview of the Industrial Disputes Act. As long as section 2(s) of Industrial Disputes Act remains as now, categories of employees referred therein alone are excluded from the purview of the Act." As the present workman being EDDA does not come within the four exemptions thereby it can be safely concluded that the employee being an EDDA under the postal department is a workman coming under the Industrial Disputes Act. Thus none of the contentions raised by the management regarding maintainability of the reference is sustainable thereby I hold that the reference is maintainable.

8. **Points 2 and 3 :—** As referred earlier the dispute is in respect of the propriety of the termination of Sri K. K. Shiji, EDDA, Pallipuram office w.e.f. 12-1-2000. According to the workman he was working as extra departmental delivery Agent (EDDA) at Pallipuram post office w.e.f. 22-2-99 to 12-11-2000 on which date he was summarily terminated. His case is that his service was continuous thereby he completed more than 240 days in a year in the post immediately preceding the date of termination and so he is a permanent employee entitled to the benefit of section 25F of the Industrial Disputes Act and since the provisions of the section is not complied with before termination the same is illegal and unjustifiable. But the case of the management is that Sri. Shiji was working as a substitute of Sri. Viswanathan, EDDA for the period from 22-2-99 to 16-8-99 while the former was on leave without allowance, at his personal risk and responsibility and the allowance being paid to the employee was the allowance due to Sri. Viswanathan that the post of EDDA, Pallipuram became vacant w.e.f. 17-9-99 due to the promotion of the regular employee Sri. Viswanathan thereby Sri. Shiji was provisionally appointed in that post and accordingly he continued from 17-8-99 to 12-1-2000 till the assumption of a regular employee that though Sri. K. K. Shiji was also applied for the post he could not be selected since he has not secured sufficient merit to succeed in the interview. Since he had not completed 240 days of service in a year preceding his termination he is not entitled to get the benefit of section 25 F thereby the termination is not illegal or unjustifiable. Ext. W1 is a charge report seems to be signed by Sri. Viswanathan and Sri. K. K. Shiji from which it is evident that Sri. K. K. Shiji took charge as EDDA, pallipuram on the F. N. of 22-2-99 in accordance with memo No. B2/ allotment/group D dated 19-2-99. Ext. W2 is another charge report dated 12-1-2000 F. N. from which it is evident that Sri. K. K. Shiji handed over charge to Sri M. P. Appukuttar Nair, EDDA, Pallipuram on 12-1-2000 F. N. in accordance with the order of sub divisional Inspector, Cherthala. The workman as WW1 has deposed that he joined duty as per Ext. W1 on 22-2-99 and was relieved on 12-1-2000 as per Ext. W2. But during cross examination he would admit that

he joined duty in the post of EDDA as substitute of Sri Viswanathan. But no documentary evidence had been produced by the management to substantiate that the workman was working as substitute of Sri Viswanathan, EDDA, Pallipuram from 22-2-99 to 16-8-99 as contended in the written statement to the employee was working as the substitute of Sri Viswanathan during the above period there should be documentary evidence in the possession of the management to prove that Sri Viswanathan was on leave without allowance during the above period and Sri K. K. Shiji was approved as his substitute for the leave period and the request for approval signed by both the substitute and the regular employee. Moreover as per the relevant provisions in the EDDA (Conduct and Service) Rules, no E.D. Agent should be permitted leave of absence for more than 90 days at a stretch which may be extended upto 180 days in exceptional circumstances by the divisional Superintendent of Post Offices. So in the present case if Sri Viswanathan, the regular EDDA, was on leave without allowance for about six months as claimed in the written statement there should be clear documentary evidence in that respect and the absence of production of such documents supports the employee's claim that he was continuously working as EDDA, Pallipuram post office from 22-2-99 to 22-2-2000 till he was terminated. If that is the case at the time of his termination the employee had completed 324 days of service which can be deemed to be continuous service for a period of one year as provided in Section 25 B (2) (a) (ii). If he was in continuous service of one year as provided in Section 25 B he is a workman entitled to benefit of 25 F in the matter of termination. In the present case the formalities contemplated in Section 25 F of the Industrial Disputes Act are not complied with in the matter of termination of the workman thereby it can be found that the termination is illegal and unjustifiable. But the workman has not brought out that any other person who was junior to him was retained in service at the time of his termination. So it cannot be found that the management had violated the provisions of Section 25 G of the Industrial Disputes Act. It is not disputed that the termination of the service of the employee was consequent on the joining of a regular employee and the workman also was considered for the regular appointment, but not succeeded. Admittedly the workman was not appointed by following the procedure envisaged under the provisions of Extra Departmental Agents (Conduct and Service) Rules, 1964 which is the Rule being followed in the matter of appointment of EDD Agents. So he cannot claim regularisation in service and he has to be replaced by a regularly appointed employee. Under these circumstances the only relief that can be allowed in this case is grant of retrenchment compensation and notice pay in terms of Section 25F of the Industrial Disputes Act. Points are answered accordingly.

In the result, an award is passed finding that the action of the management in terminating the service of

Sri K. K. Shiji, EDDA, Pallipuram post office w.e.f. 12-1-2000 is illegal and unjustifiable and he is entitled to get retrenchment compensation and one month's notice pay in terms of Section 25 F of the Industrial Disputes Act considering that he was retrenched on 12-1-2000.

This award will take effect one month after its publication in the Official Gazette.

Dictated to the Confidential Assistant, transcribed and typed out by her, corrected by me and passed this the 31st day of July, 2003.

Ernakulam. N. THULASI BAI, Presiding Officer

APPENDIX

Witness examined on the side of the Management : Nil

Witness examined on the side of the Workman : WW 1—Shri K.K. Shiji

Exhibits marked on the side of the Management : Nil

Exhibits marked on the side of the Workman :

Ext. W1 — Charge report of EDDA, Pallipuram dated 22-2-99.

Ext. W2 — Charge report of EDDA, Pallipuram dated 12-1-2000.

नई दिल्ली, 7 अक्टूबर, 2003

का. आ. 3149—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार श्रम कल्याण मंत्रालय संगठन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोटा के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-2003 को प्राप्त हुआ था।

[सं. एल-42012/132/96-आई आर (डी यू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 7th October, 2003

S. O. 3149.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Industrial Tribunal, Kota as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Labour Welfare Organisation and their workman, which was received by the Central Government on 7-10-2003.

[No. L-42012/132/96-IR(DU)]

B. M. DAVID, Under Secy.

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी— श्री मणिशंकर व्यास, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : औ.न्या./केन्द्रीय/-33/97

दिनांक स्थापित: 21-11-97

प्रसंग: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश सं. एल. 42012/132/96-आई आर (डी यू) दिनांक 20-8-97

निर्देश अन्तर्गत धारा 10(1)(घ)
औद्योगिक विवाद अधिनियम, 1947

मध्य

रमेश चन्द्र पुत्र श्री रामप्रसाद : प्रार्थी श्रमिक
निवासी जेठियों का अखाड़ा,
किशोरपुरा, कोटा, राज.

एवं

श्रम कल्याण आयुक्त, : अप्रार्थी नियोजक
श्रम कल्याण संगठन,
44ए, गांधी नगर, भीलवाड़ा, राज.

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री वी.के. सूद एवं
श्री ओ.पी. वर्मा

अप्रार्थी नियोजक की ओर से प्रतिनिधि : श्री एस.एस. उत्पल

अधिनिर्णय दिनांक : 10-7-2003

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश दिनांक 20-8-97 के जरिये निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से संबोधित किया जावेगा) की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :—

"Whether the action of the management of Labour Welfare Organisation, Bhilwara Region, Bhilwara through its officers in terminating the services of workman Sh. Ramesh Chand S/o Ramprasad Chowkidar, Bidi Workers Welfare Organisation Dispensary, Kota w.e.f. 1-1-94 is legal and justified?

If not, what relief the concerned workman is entitled to and from what date."

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना विधिवत् रूप में जारी की गयी।

3. प्रार्थी श्रमिक रमेश चन्द्र की ओर से क्लेम स्टेटमेन्ट प्रस्तुत कर संक्षेप में यह अभिकथित किया गया है कि वह अप्रार्थीगण श्रम कल्याण आयुक्त, 44 ए, गांधी नगर, भीलवाड़ा एवं सहायक कल्याण प्रशासक, बीड़ी श्रमिक चिकित्सालय, कोटा के अधीन दिनांक 9-4-87 से दैनिक वेतन भोगी श्रमिक के रूप में नियोजित होकर 31-12-93 तक लगातार ब्रेसर-कम-अटेंडेन्ट, बागवान व तदुपरान्त सफाई वाले के पद का कार्य करता रहा है। अप्रार्थीगण द्वारा उसको सेवाओं से संतुष्ट होकर उनके पत्र दि. 1-5-89, 18-11-87 एवं 22-7-89 द्वारा भी उसे सेवा में नियमित किये जाने की सिफारिश की गयी है, तदुपरान्त भी उसकी सेवा में बिना कोई सूचना, सुनवाई, एक माह का नोटिस अथवा नोटिस वेतन व छुट्टी मुआवजा दिये मौखिक तौर पर समाप्त कर दी गयी। अतः अप्रार्थीगण नियोजक द्वारा प्रार्थी को उक्त प्रकार से सेवा से पृथक् किया जाना अनुचित एवं अवैध घोषित करते हुए पिछले सम्पूर्ण वेतन व सेवा के समस्त लाभों सहित सेवा में पुनर्स्थापित किये जाने का अनुतोष प्रदान किया जावे।

4. अप्रार्थीगण नियोजक की ओर से प्रार्थी श्रमिक के क्लेम का जवाब प्रस्तुत करते हुए प्रतिवाद स्वरूप यह अभिकथित किया गया है कि उनके विभाग में आवश्यकतानुसार समय-समय पर निश्चित अवधि के लिए कर्मचारी अल्पकालीन समय के लिए रखे जाते हैं। प्रार्थी श्रमिक को भी कोटा में सहायक कल्याण प्रशासक बीड़ी श्रमिक चिकित्सालय, कोटा में अल्पकालीन श्रमिक के रूप में गार्डनर (बागवानी) व पानी पिलाने के कार्य हेतु रखा गया था जिसकी नियुक्ति एक निश्चित अवधि के लिए की जाती रही है जो समय-समय पर की जाती थी। प्रार्थी मात्र एक दिवस में दो-तीन घण्टे ही कार्य करता था और उसे 350/ रु. अल्पकालीन श्रमिक का वेतन दिया जाता था। प्रार्थी द्वारा कभी भी पूर्ण दिवस कार्य नहीं किया गया और ना ही उसकी नियुक्ति दैनिक वेतन भोगी श्रमिक के रूप में की गयी। अप्रार्थी नं. 1 द्वारा अपने अधीनस्थ औषधालयों में अल्पकालीन श्रमिकों की नियुक्ति हेतु एक साथ स्वीकृति प्रदान की जाती थी और प्रार्थी की नियुक्ति भी अप्रार्थी सं. 2 द्वारा उक्त प्राप्त स्वीकृति के आधार पर ही मौखिक रूप से की गयी थी जोकि एक निश्चित अवधि के लिए आवश्यकतानुसार स्वीकृति पत्र में अंकित स्वीकृति के आधार पर की गयी थी, उसे कभी कोई नियुक्ति-पत्र नहीं दिया, ना ही हटाने का कोई पत्र ही दिया। प्रार्थी श्रमिक चूंकि औषधालय में बागवानी व पानी पिलाने की आवश्यकता नहीं होने व आगे नियुक्ति की स्वीकृति नहीं दिये जाने के कारण स्वयं ही अपने कार्य पर उपस्थित नहीं हुआ, अतः उसके द्वारा स्वयं कार्य छोड़कर चले जाने के कारण उसे किसी प्रकार का कोई नोटिस अथवा सुनवाई का कोई मौका दिये जाने का प्रश्न उत्पन्न नहीं होता। प्रार्थी की नियुक्ति एक निश्चित अवधि के लिए की जाती थी और अवधि समाप्ति पर स्वतः समाप्त मानी जाती थी। विशेष अपत्तियों में यह भी अभिकथित किया गया है कि अप्रार्थीगण का विभाग केन्द्रीय सरकार के अधीन श्रम मंत्रालय के अन्तर्गत

कार्यरत एक संस्थान है जो बीड़ी श्रमिकों की भलाई व सेवा के लिए कार्यरत होने से सावरण संस्थान है, कोई लाभ अर्जित नहीं करता, अतः उक्त अप्रार्थीगण विभाग उद्योग की परिभाषा में नहीं आते हैं और न उन पर अधिनियम के कोई प्रावधान ही लागू होते हैं। इसके अतिरिक्त चूंकि प्रार्थी की सेवायें स्वतः ही समाप्त हो गयी हैं, अतः उसका मामला अधिनियम की धारा 2 (ओओ) (बीबी) के तहत छंटनी की परिभाषा में नहीं आता। अतः प्रार्थी श्रमिक अधिनियमान्तर्गत कोई अनुतोष का अधिकारी नहीं है और उसका क्लेम सव्यय निरस्त किया जावे।

5. प्रार्थी श्रमिक की ओर से साक्ष्य में स्वयं का शपथ-पत्र प्रस्तुत किया गया है, जबकि अप्रार्थी नियोजक की ओर से डॉ. संजीव कवात्रा, वरिष्ठ चिकित्सा अधिकारी को परीक्षित करवाया गया है। उभयपक्ष की ओर से प्रलेखीय साक्ष्य भी प्रस्तुत की गयी है जिसका यथा समय उल्लेख किया जावेगा।

6. उभयपक्ष के विद्वान प्रतिनिधिगण की बहस सुनी गयी जो बहस मुख्यतः उनके द्वारा प्रस्तुत अभिवचनों के अनुरूप ही रही है। पत्रावली तथा अभिलेख पर ग्राह्य साक्ष्य व सामग्री का ध्यानपूर्वक परिशीलन किया गया।

7. उभयपक्ष के तर्कों पर विचार करते से पूर्व पत्रावली पर उपलब्ध साक्ष्य का संक्षेप में विवेचन किया जाना न्यायोचित प्रतीत होता है। प्रार्थी रमेशचन्द्र ने अपने बयानों में, स्टेटमेंट क्लेम के तथ्यों की पुष्टि की है और मुख्य रूप से यह कहा है कि उसने अप्रार्थीगण के अर्धान् दिनांक 9-4-87 से 31-12-93 तक लगातार बागवान व सफाई वाले के पद का कार्य किया है। दिनांक 1-1-94 से उसकी सेवायें मौखिक तौर पर समाप्त कर दी गयी जो कार्यवाही अवैध, अनाधिकृत एवं गैरकानूनी है प्रतिपरीक्षा में इस गवाह का कथन है कि यह बात सही है कि मुझे अंशकालीन श्रमिक के रूप में 350 रु. माहवार पर रखा गया था, मैं सुबह आकर बागवानी व सफाई का काम करता था। यह गलत है कि वह सिर्फ 2-3 घण्टे ही काम करता हो। उससे काम सुबह 9½ बजे से शाम के 6½ बजे तक लिया जाता था और पैसा अंशकालीन का दिया जाता था। अप्रार्थी के गवाह डॉ. संजीव कवात्रा ने अपने बयानों में जवाब के तथ्यों की पुष्टि की है और मुख्य रूप से यह कहा है कि प्रार्थी श्रमिक को अंशकालीन श्रमिक के रूप में एक निश्चित अवधि के लिए अस्थायी तौर पर गार्डनर/पानी पिलाने वाले के पद पर 350 रु. माहवार वेतन पर लगाया गया था, इससे दो-तीन घण्टे ही कार्य लिया जाता था। दिनांक 31-12-93 के पश्चात् विभाग में गार्डनर व पानी वाले के कार्य की आवश्यकता नहीं रहने व श्रम कल्याण आयुक्त, भीलवाड़ा से स्वीकृति प्राप्त ना होने के कारण, अवधि नहीं बढ़ाये जाने से प्रार्थी श्रमिक स्वयं ही कार्य छोड़कर चला गया। प्रतिपरीक्षा में इस गवाह का कथन है कि वह सन् 1988 से 1998 तक कोटा में पदस्थापित रहा था, प्रार्थी की हाजिरी वह स्वयं भरता था। प्रार्थी का कार्य केवल बाग में पानी डालने का ही था। यह कहना गलत है कि प्रार्थी ने 9-4-87 से 31-12-93 तक लगातार कार्य किया हो। प्रार्थी से सम्बन्धित रेकार्ड न्यायालय में पेश नहीं किया। यह सही है कि प्रार्थी ने वर्ष 87 से लेकर वर्ष 93 तक कार्य किया है, लेकिन लगातार नहीं किया। सन् 87 से वर्ष

93 तक प्रार्थी ने किस-किस अवधि में काम किया व किस-किस अवधि में अनुपस्थित रहा, आज नहीं बता सकता। उनके रेकार्ड में प्रार्थी का कोई त्याग-पत्र नहीं है। प्रार्थी को स्वयं कार्य पर नहीं आने बाबत कोई शो-काँज नोटिस नहीं दिया गया। प्रदर्श डबल्यू. 2 पत्र सहायक कल्याण विभाग द्वारा जारी किया हुआ है व प्रदर्श डबल्यू. 3 पत्र भी हमारे विभाग द्वारा जारी पत्र है। प्रार्थी को जो अंशकालीन वेतन अन्तिम रूप से मिल रहा था जो मेरे हिसाब से 350 रु. से अधिक होगा जो रेकार्ड देखकर बता दूंगा। यह सही है कि प्रार्थी को कभी भी एक माह का नोटिस, नोटिस वेतन व छंटनी मुआवजा अदा नहीं किया गया।

8. यह स्वीकृत स्थिति है कि प्रार्थी एक अंशकालीन कर्मचारी था जिसको 350 रु. माहवार वेतन दिया जाता था व अन्तिम आदेश 21-12-93 का पेश किया गया है जिसमें 400 रु. वेतन अल्पकालीन बागवान के लिए स्वीकृति का आदेश जारी किया गया है। विभाग द्वारा अन्तिम रूप से 400 रु. अंशकालीन वेतन के रूप में प्रार्थी श्रमिक को दिया जा रहा था। अंशकालीन कर्मचारी भी अधिनियम की धारा 2(एस) के अन्तर्गत परिभाषित "कर्मकार" की श्रेणी में आता है, इस मत की पुष्टि न्यायदृष्टांत "1989(59) एफ.एल.आर. 607-यशवन्त सिंह यादव बनाम राज. राज्य एवं अन्य तथा 2001 (89) एफ.एल.आर. 929 (दिल्ली उ.न्या.)-ऑल इण्डिया लिमि. बनाम प्रीसाईडिंग ओफिसर, लेबर कोर्ट.3 एवं अन्य" से होती है। इसी सन्दर्भ में समान तथ्यों के न्यायदृष्टांत "1996(2) एल.एल.एन. 1261 (राज.)-मैनेजमेन्ट डायरेक्टर, राज. स्माल स्केल इण्ड. बनाम पैलीराम" का अवलम्ब लिया जा सकता है जिसमें माननीय राज. उच्च न्यायालय द्वारा यह सम्प्रेषण किया गया है कि किसी व्यक्ति को नियोजक कारपोरेशन के बगीचे में देखभाल करने के लिए अंशकालीन रूप में 2-3 घण्टे के लिए रखा जाता है तथा उसे एक मुश्त माहवारी भुगतान किया जाता है तो ऐसा व्यक्ति "कर्मकार" की श्रेणी में आता है। अतः उक्त न्यायदृष्टांतों में प्रतिस्थापित सिद्धांत के आधार पर प्रार्थी श्रमिक भी "कर्मकार" की श्रेणी में आता है और विद्वान प्रतिनिधि अप्रार्थी का यह तर्क स्वीकार किये जाने योग्य नहीं है कि प्रार्थी कर्मकार की श्रेणी में नहीं आता।

9. यह भी एक स्वीकृत स्थिति है कि प्रार्थी ने लगातार वर्ष 87 से वर्ष 1993 तक कार्य किया था, उसकी कार्यावधि समय-समय पर बढ़ायी गयी थी। अप्रार्थी के गवाह डॉ. संजीव कवात्रा ने प्रतिपरीक्षा में स्वीकार किया है कि प्रदर्श डबल्यू. 3 पत्र उनके विभाग का जारी किया हुआ है जिसके पैरा-1 में यह अंकित है कि "प्रार्थी को अंशकालिक पद पर कार्य करते हुए अनुमानित दो वर्ष पूरे हो चुके हैं।" यह पत्र दिनांक 1-5-89 को जारी किया गया था, इसमें प्रार्थी का वेतन बढ़ाये जाने की भी सिफारिश की गयी है। पत्र प्रदर्श डबल्यू. 2 भी इस गवाह ने विभाग द्वारा जारी किया जाना स्वीकार किया है जो दि. 22-7-89 को जारी किया गया था। इसके पैरा नं. 1 में प्रार्थी के कार्य की अवधि 8.00 ए.एम. से 6.00 पी.एम. तक बतायी गयी है। इसके अतिरिक्त अप्रार्थी की ओर से अल्पकालीन कार्य की स्वीकृति दिनांकित 16-6-92, 14-9-92, 16-12-92, 31-3-93, 12-7-93 एवं 21-12-93 पेश की गयी है, जिनमें प्रार्थी का नाम दर्ज नहीं है, लेकिन उनका यह कथन रहा है कि इन स्वीकृतियों के आधार पर

प्रार्थी को समय-समय पर नियुक्ति दी गयी थी। इस प्रकार स्पष्ट है कि प्रार्थी ने लगातार दि. 9-4-87 से 31-12-93 तक कार्य किया था। अधिनियम की धारा 2 (ओओ)(बीबी) के अपवाद का लाभ किसी नियोजक को उसी स्थिति में प्राप्त हो सकता है जबकि नियुक्ति-पत्र में इसका उल्लेख हो। प्रार्थी से संबंधित जो भी अभिलेख पेश किया गया है, उसमें किसी में भी यह अंकित नहीं है कि प्रार्थी की नियुक्ति एक निश्चित अवधि के लिए की गयी थी। माननीय उच्चतम न्यायालय ने निर्णय "एस.सी.एल.जे. (1999-2000) पृष्ठ 687-एक्जीक्यूटिव इंजीनियर, सीपीडब्ल्यूडी, इन्दौर बनाम मधुकर पुरुषोत्तम कोलबरकर" में यह भी निर्धारित किया है कि यदि किसी अस्थायी दैनिक वेतन भोगी कर्मचारी के नियुक्ति-पत्र में निश्चित अवधि का अंकन ना हो तो अधिनियम की धारा 2 (ओओ)(बीबी) के प्रावधान लागू नहीं होते। हस्तगत मामले में भी उक्त न्यायदृष्टांत के आधार पर अधिनियम की धारा 2 (ओओ)(बीबी) के प्रावधान लागू नहीं होते। यहां यह भी उल्लेखनीय है कि प्रार्थी की कार्यवधि समय-समय पर बढ़ायी गयी थी जिससे भी निश्चित अवधि की नियुक्ति का स्वरूप समाप्त हो जाता है और ऐसा कृत्य अनुचित श्रम आचरण की परिभाषा में आता है, इस मत की पुष्टि पंजाब एवं हरियाणा उच्च न्यायालय द्वारा "सिविल रिट पिटि नं. 11881/94-भीखुराम एवं अन्य बनाम पीठासीन अधिकारी, औद्योग. न्या. एवं श्रम न्याया. रोहतक एवं अन्य में पारित निर्णय दिनांकित 28-11-94" से होती है। अतः अप्रार्थी पक्ष का यह तर्क स्वीकार किये जाने योग्य नहीं है कि प्रार्थी श्रमिक की नियुक्ति एक निश्चित अवधि के लिए की गयी थी।

10. अब जहां तक प्रार्थी श्रमिक द्वारा एक कलेण्डर वर्ष में 240 दिन कार्य किये जाने का प्रश्न है, इस संबंध में अप्रार्थी साक्षी ने प्रदर्श डब्ल्यू. 3 पत्र विभाग द्वारा जारी किया जाना बतलाया है जिसमें यह अंकित है कि प्रार्थी ने लगातार दो वर्ष कार्य पूर्ण कर लिया था। इसके अलावा भी प्रार्थी से संबंधित समस्त अभिलेख अप्रार्थी के कब्जे में था जिसे न्यायाधिकरण में पेश नहीं किया गया है। सर्वोत्तम साक्ष्य पेश नहीं किये जाने के कारण अप्रार्थीगण नियोजक के विरुद्ध प्रतिकूल उपधारणा ली जायेगी, इस मत की पुष्टि न्यायदृष्टांत "ए.आई.आर. 1968 एस.सी. 1413-गोपालू जी केतकर बनाम मोहम्मद हाजी लतीफ एवं अन्य" से होती है। अप्रार्थी द्वारा प्रार्थी से संबंधित दस्तावेज पेश नहीं करने के कारण एवं प्रदर्श डब्ल्यू. 3 पत्र में अंकित स्वीकारोक्ति के आधार पर प्रार्थी श्रमिक द्वारा वर्ष 87-88 एवं 88-89 में प्रत्येक कलेण्डर वर्ष में 240 दिन कार्य किया जाना प्रमाणित है और इससे आगे भी जो स्वीकृति आदेश पेश किये गये हैं, उनके आधार पर प्रार्थी का प्रत्येक कलेण्डर वर्ष में 240 दिन से अधिक कार्य किया जाना प्रमाणित है। अतः अप्रार्थी पक्ष का यह तर्क स्वीकार किये जाने योग्य नहीं है कि प्रार्थी श्रमिक ने लगातार एक कलेण्डर वर्ष में 240 दिन का कार्य पूर्ण नहीं किया था।

11. जहां तक प्रार्थी श्रमिक द्वारा स्वयं कार्य छोड़कर जाने का प्रश्न है, अप्रार्थी के गवाह ने स्वयं स्वीकार किया है कि दिनांक 31-12-93 के बाद उसकी अवधि नहीं बढ़ायी गयी थी। ऐसी स्थिति में प्रार्थी श्रमिक द्वारा स्वयं कार्य का परित्याग किया जाना प्रमाणित नहीं है।

12. अब जहां तक अप्रार्थी विभाग "उद्योग" की श्रेणी में नहीं आने का प्रश्न है, इस बिन्दु पर अप्रार्थी पक्ष द्वारा यद्यपि दौरान बहस कोई बल नहीं दिया गया है, तथापि इस सन्दर्भ में माननीय उच्चतम न्यायालय का न्यायदृष्टांत "बैंगलोर वाटर सप्लाय एण्ड सीवेरेज बोर्ड एवं अन्य बनाम आर. राजप्पा एवं अन्य-1982 (एस.सी.आर. 207)" बहुत प्रासंगिक है जिसके आधार पर हस्तगत अप्रार्थी विभाग अधिनियमान्तर्गत "उद्योग" की परिभाषा में आता है।

13. उपरोक्त विश्लेषण के आधार पर यह प्रमाणित है कि प्रार्थी श्रमिक की नियुक्ति अप्रार्थी विभाग में एक दैनिक वेतन भोगी अंशकालीन श्रमिक के रूप में दि. 9-4-87 से की गयी थी और उसने लगातार 31-12-93 तक कार्य किया था और उसका अंतिम वेतन 400/- रु. प्रतिमाह था। उक्त अवधि के दौरान प्रार्थी श्रमिक ने प्रत्येक कलेण्डर वर्ष में 240 दिन से अधिक समय तक कार्य पूर्ण कर लिया था परन्तु अप्रार्थी नियोजक द्वारा उसे सेवा से हटाये जाने से पूर्व स्वीकृत रूप से अधिनियम की धारा 25-एफ के आज्ञापक प्रावधानों की पालना नहीं की गयी थी, जबकि एक दैनिक वेतन भोगी कर्मचारी चाहे वे अंशकालीन ही हो, के मामले में उक्त प्रावधान की पालना किया जाना आवश्यक है, अन्यथा ऐसा सेवा से किया गया निष्कासन अवैध व प्रभावशून्य होता है, इस मत की पुष्टि न्यायदृष्टांत "2001 (88) एफ.एल.आर. 508 (एस.सी.) दीपचन्द्र बनाम उत्तर प्रदेश राज्य एवं अन्य" से होती है। इस प्रकार अप्रार्थीगण नियोजक द्वारा प्रार्थी श्रमिक का दिनांक 1-1-94 से किया गया सेवा से निष्कासन पूर्णतया अवैध व प्रभावशून्य है और प्रार्थी श्रमिक अपनी सेवा की निरन्तरतासहित सेवा में पुनर्स्थापित होने का अधिकारी घोषित होने योग्य पाया जाता है।

14. अब जहां तक प्रार्थी श्रमिक के पिछले वेतन का प्रश्न है, प्रार्थी श्रमिक एक अंशकालीन श्रमिक था, लेकिन उससे कार्य पूर्णकालिक श्रमिक के रूप में लिया जाता था, ऐसी स्थिति में जबकि प्रार्थी श्रमिक एक अल्पवेतन भोगी कर्मचारी था, उसे सम्पूर्ण अंशकालीन वेतन दिलाया जाना ही न्यायोचित प्रतीत होता है।

परिणामतः भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा सम्प्रेषित निर्देश/विवाद का अधिनिर्णयन कर इस प्रकार उत्तरित किया जाता है कि अप्रार्थीगण नियोजक श्रम कल्याण आयुक्त, श्रम कल्याण संगठन 44ए, गांधीनगर/भीलवाड़ा/राजस्थान तथा सहायक कल्याण प्रशासक, बीड़ी श्रमिक चिकित्सालय, कोटा/राज./द्वारा प्रार्थी श्रमिक रमेशचन्द्र पुत्र रामप्रसाद को दिनांक 1-1-94 से सेवा से पृथक् किया जाना उचित एवं वैध नहीं है और प्रार्थी श्रमिक प्रकरण के तथ्यों व समस्त परिस्थितियों को ध्यान में रखते हुए अपनी सेवा की निरन्तरता व पिछले सम्पूर्ण अंशकालीन वेतन सहित सेवा में पुनर्स्थापित होने का अधिकारी घोषित किया जाता है।

इस अधिनिर्णय को समुचित सरकार को नियमानुसार प्रकाशनार्थ भिजवाया जावे।

मणिशंकर न्यास, न्यायाधीश

नई दिल्ली, 7 अक्टूबर, 2003

क्र. आ. 3150.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, एरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-2003 को प्राप्त हुआ था।

[सं. एल-40012/230/99-आई. आर.(डी)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 7th October, 2003

S.O. 3150.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Labour Court, Eranakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management Deptt. of Post and their workman, which was received by the Central Government on 7-10-2003.

[No. L-40012/230/99-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(Thursday the 31st day of July, 2003)

PRESENT: Smt. N. Thulasi Bai, B.A. LL. B.,
Presiding Officer

Industrial Dispute No. 71 of 1999 (Central)

Between

The Assistant Superintendent of Post Office, Kochi
Postal Sub Division, Kochi-682001.

And

The workman of the above concern Sri. V. Ramesh,
H. No. VIII/2183, AMC Road, Kochi-682002.

Representations:

Sri. V.V. Sidharthan, : For Management
Standing Govt. Counsel,
Chittor Road, Valanjambalam,
Kochi-16

Sr. K. Anil G. Bau, Advocate, : For Workman
While House,
Pullepady Road,
Kochi-18

AWARD

This reference was made by the Central Government as per order No. L-40012/230/99/IR(DU) dated 21-10-99.

The dispute is between the Assistant Superintendent of Post Office, Ernakulam District and their workman Sri. V. Ramesh. The dispute referred is

"Whether the action on the part of Assistant Superintendent of post office, Ernakulam District in terminating the service of Shri V. Ramesh, Extra Departmental Letter Box, Peon, Mattancherry, with effect from 15-3-99 is justified? If not, what relief the workman is entitled to?"

2. On receipt of notices issued from this court the workman and management appeared through counsel.

3. Workman filed a claim statement stating as follows:—The workman was working as Extra Departmental Letter Box Peon (EDLB Peon) at the Mattancherry post office as a substitute of one Suresh Kamath, Sri. Suresh Kamath was a very senior E. D. Agent and he was often engaged as officiating postman or Chowkidar from 1989 onwards thereby the workman was being engaged as his substitute from 1989 onwards. The workman was an approved substitute of Sri. Suresh Kamath. From 1-8-97 onwards Sri. Suresh Kamath was regularly working as officiating Chowkidar thereby the workman was engaged as his substitute from that date. Later Sri. Suresh Kamath was selected and appointed as regular postman and even then the workman continued as the EDLB Peon. Thus the workman gained an experience of 10 years. He was fully qualified and discharged his duties with utmost dedication and sincerity. He had completed more than 240 days of continuous service. While so he was retrenched from service on 15-3-1999 by the Assistant Superintendent of Post Offices, Kochi postal sub-division coming under the Ernakulam postal division. No notice or notice pay was given to him. Thus he was retrenched in gross violation of the provisions of Chapter V-A of the Industrial Disputes Act. He is a workman within the definition of Section 2 (s) and the postal department is an industry as defined in Section 2 (j) of the Industrial Disputes Act. Since he is a workman having uninterrupted service for more than 240 days, he is entitled to be regularised as E.D.L.B. Peon. His termination is retrenchment and he is entitled to be reinstated with all services benefits as per Section 25 H of the Industrial Disputes Act.

4. In the written statement filed by the management following contentions are seen raised:—The postal department is not an industry within the meaning of the Industrial Disputes Act thereby the I.D. Act has no application to the management. The workman was nominated to work as E.D.L.B. Peon, Mattancherry by Sri. Suresh Kamath during his leave period from 1.4.1998 to 15.3.99 on his responsibility in accordance with P & T ED Agents (Conduct and Service) Rules, 1964. The workman's claim that he was working from 1989 onwards and gained 10 years experience are not correct. The workman was not appointed to the post of EDLB Peon by the postal

department. He was working as a substitute of the regular E.D.L.B. Peon Sri. Suresh Kamath thereby there is no question of retrenchment. When the period of leave granted to the E.D. Agent expires the substitute has to vacate and there is no illegality in the matter. Appointment of substitute for an E.D. Agent was solely on the responsibility of the E.D. Agent with the clear understanding that the substitute has to vacate when the leave of the regular E.D.L.B. Peon expires. He is neither a workman nor an employee under the postal department. There is no employer-employee relationship between the applicant and the postal department. As per rules an E.D. Agent should arrange for his work being carried out by a substitute when he is on leave. The conditions of service, method of recruitment etc. of ED Agents (Conduct and Service) Rules, 1964. The applicant has already filed O.A. No. 325/99 before the Central Administrative Tribunal, Ernakulam claiming the same relief which ended in dismissal as per order dated 18-3-1999. As the matter has already been adjudicated by a judicial forum the same issue cannot be agitated before another judicial forum. The Central Administrative Tribunal has held in O.A. 207/99 that substitute E.D. Agent does not have a right for appointment. So according to the management the reference has to be dismissed with cost of the management.

5: Evidence adduced from both sides which consists of the testimony of the workman as WW1 and Exts. W1 and W2 and M1 and M2.

6. Thus the points arise for determination are :

1. Whether the postal department is an industry and whether the applicant is a workman coming under the purview of the Industrial Disputes Act?
2. Whether the action on the part of the Assistant Superintendent of post office, Ernakulam in terminating the service of Sri. V. Ramesh, EDLB, Peon, Mattancherry w.e.f. 15-3-1999 is justified?
3. The relief, if any due to the workman.

7. **Points :** Admittedly Sri. V. Ramesh, the employee involved in the present case was working as a substitute for Sri. Suresh Kamath, a regular EDLB Peon under the Post and Telegraphic Department. According to the employee he is a workman and postal department is an industry thereby his termination is retrenchment under Section 25F of the Industrial Disputes Act and since the formalities thereto are not complied with the termination is illegal. But according to the management the employee, being the substitute for the regular EDLB Peon, is not a workman entitled to the benefit of the I.D. Act and the postal department is not an industry within the purview of the Act thereby the reference under the I.D. Act itself is not sustainable.

8. As pointed out by the workman's counsel relying on the decision reported in JT 1997 (9) S. C. 234 (General Manager, Telecom Vs. S. Srinvasa Rao and others) in which (1978) 2 S.C.C. 213 (Bangalore Water Supply and Sewage Board Vs. A. Rajappa and others) is followed, it is settled that the Telecommunication Department of the union of India is an industry within the meaning of its definition contained in Section 2 (j) of the I.D. Act. In the decision reported in 1989 LAB IC 670 it was decided by the Calcutta Bench of the Central Administrative Tribunal that an ED Agent is a workman in view of the wider definition of the workman given in Section 2 (s) of the Industrial Disputes Act. I hold that the present employee being the substitute EDLB peon is a workman coming under the purview of the Industrial Disputes Act. Thus the preliminary contentions raised by the management against the maintainability of the reference are not sustainable.

9. Then the question to be determined is that whether the action of the Assistant Superintendent of post office, Ernakulam District in terminating the service of Sri. V. Ramesh, EDLB Peon Mattancherry, the workman involved in the present case, w.e.f. 15-3-1999 is justifiable or not. While considering the above aspect the first and most important fact to be considered is that Sri. V. Ramesh was nominated to work as EDLB Peon, Mattancherry by Sri. Suresh Kamath, the regular EDLB, Peon, during his leave period is not disputed. Leave to ED Agents are governed by ED Agents (Conduct and Service) Rules, 1964. As per the above Rules and ED Agents should arrange for this work being carried out by a substitute when he is on leave. The prescribed application for leave shows that the regular ED Agent while applying for leave has to propose substitute of his choice on his own responsibility in terms of the security bond executed by him. Ext. M1 is the leave application filed by Sri. Suresh Kamath, EDLB Peon, in the prescribed form for the period from 1-4-98 to 30-4-98. It is seen signed by Sri. Suresh Kamath, regular LB Peon and Sri. V. Ramesh the substitute. It is required in Ext. M1 to pay the batta for leave period due to Sri. Suresh Kamath to the substitute Sri. V. Ramesh. Ext. W1 is the order dated 22-1-1992 by which Sri. V. Suresh Kamath and 3 other ED Agents were granted leave without allowance for the respective period from which it is evident that Sri. V. Suresh Kamath was granted leave for the period from 31-7-91 to 30-9-91 during which period Sri. V. Ramesh has worked as substitute, Ext. W2 is an order dated 9-1-1992 of the office of the Senior Superintendent of Post Office, Ernakulam Division by which the appointment of the substitute was approved. It is made clear in Ext. W2 that the approval was sanctioned on the understanding that the substitute may be discharged by the appointing authority at any time without notice. Rule 5 of ED Agents (Conduct and Service) Rules deals with leave of the employees working as ED Agents from which it is evident that during the leave every ED Agent should arrange for

his work being carried by a substitute who should be a person approved by the authority competent to sanction leave to him. Such approval should be obtained in writing. The allowance normally payable to an ED Agent shall be paid to the approved substitute during leave period. Ext. M2 is an order passed by the Central Administrative Tribunal, Ernakulam in O.A. 207/99 filed by one Anilkumar, who has worked as a substitute for the ED agent, against the postal department. As per Ext. M2 the Central Administrative Tribunal dismissed the application finding that while working as a substitute of an E.D. Agent he does not get a right for appointment as a regular ED Agent. It was admitted by the workman as WW1 that he also filed O.A. 321/99 before the Central Administrative Tribunal, Ernakulam. During cross examination he admit that he had undertaken in Ext. M1 to relieve from duty on the assumption of charge by Suresh. He has not undergone the normal procedure of attending best or facing interview for the appointment in the postal department has been admitted by WW1. He has undertaken to relieve from duty on the assumption of charge by Suresh and he was complying that undertaking and he was getting the allowance due to Suresh Kamath during his leave period has also admitted by WW1. Thus the workman being a substitute of a regular EDLB Peon, he is not entitled to get notice or notice pay as provided in Section 25 F of the Industrial Disputes Act as a condition precedent for his disengagement. So also he being a substitute who has undertaken to quit the engagement on assuming charge by the regular employee Sri. V. Suresh Kamath he is not entitled to get regularisation in the post and his engagement for 240 days or more cannot be treated as continuous service within the meaning of section 25B of the Industrial Disputes Act. So. Sri. V. Ramesh, EDLB Peon, Mattancherry, the workman involved in the present case, is not entitled to get any relief as per the reference and the action on the part of the Assistant Superintendent of Post Office, Ernakulam in terminating his service w.e.f. 15-3-99 cannot be found as unjustified. Points are answered accordingly.

In the result, an award is passed finding that the action of the Assistant Superintendent of Post Office, Ernakulam in terminating the service of Sri. V. Ramesh, Extra Departmental Letter Box, Peon, Mattancherry w.e.f. 15-3-99 is justified and he is not entitled to get any relief as per the reference.

This award will take effect one month after its publication in the Official Gazette.

Dictated to the Confidential Assistant, transcribed and typed out by her, corrected by me and passed this the 31st day of July, 2003.

Ernakulam.

N. THULASI BAI, Presiding Officer

APPENDIX

Witness Examined on the side of the Management :—Nil

Witness examined on the side of the workman :

WW1—V. Ramesh.

Exhibits marked on the side of the Management :—

Ext. M1—Application form of Extra Departmental Agents.

Ext. M2—Photo copy of order in O.A. 207/99 of Central Administrative Tribunal.

Exhibits marked on the side of the workman :

Ext. M1—Copy of order dated 1992 of Postal department.

Ext. M2—Copy of order dated 22-1-92 of Postal department.

नई दिल्ली, 7 अक्टूबर, 2003

का. आ. 3151.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की भाषा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, बीकानेर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-2003 को प्राप्त हुआ था।

[सं. एल-40012/207/96-आई. आर.(डीयू.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 7th October, 2003

S.O. 3151.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bikaner as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom and their workman, which was received by the Central Government on 7-10-2003.

[No. L-40012/207/96-IR(DU)]

B. M. DAVID, Under Secy.

अनुबंध

औद्योगिक विवाद अधिकरण, बीकानेर

नं. मु. केन्द्रीय औद्योगिक विवाद प्रसंग सं. 2 सन् 2001

श्री खीवाराम ओड पुत्र श्री भगवानाराम जाति ओड निवासी
कालूका वासी श्री इंगरगढ जिला चूरु

—प्रार्थी/श्रमिक

विरुद्ध

मंडल अभियन्ता, टेलिकोम माईक्रोवेव, स्टेशन लालगढ, बीकानेर

—अप्रार्थी/नियोजक

प्रसंग अन्तर्गत धारा 10(1)(घ), औद्योगिक विवाद अधिनियम, 1947

न्यायाधीश—श्री के. एल. माथुर, आर. एच.जे.एस.

उपस्थिति :—

- (1) श्री संतोष कुमार सेनी, श्रमिक प्रतिनिधि, प्रार्थी के लिये
- (2) श्री मदनलाल श्रीमाली, अभियोजक, अप्रार्थी नियोजक के लिये

अधिनिर्णय

दिनांक : 13 मार्च, 2003

भारत सरकार के श्रम मंत्रालय द्वारा औद्योगिक विवाद अधिनियम 1947 (जिसे आगे चलकर केवल अधिनियम कहा जायेगा) की धारा 10 की उपधारा (1) के खण्ड (घ) के अधीन जारी अधिसूचना क्रमांक एल-40012/207/96-आई.आर. (डीयू) दिनांक 30-1-2001 द्वारा प्रेषित इस प्रसंग के अन्तर्गत निम्न विवाद अधिनिर्णयार्थ इस अधिकरण में भेजा था :

“Whether the action of Divisional Engineer Telecom, Microwave Station (Lalgah); Bikaner is justified in terminating the services of Sh. Khinva Ram Oud, workman w.e.f. 10-7-1984. If not, to what relief the workman is entitled and from what date?”

2. प्रसंग प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया गया, दोनों पक्षकारों द्वारा अपने-अपने लिखित अभिवचन पेश किये गये हैं अर्थात् प्रार्थी श्रमिक खिंवाराम द्वारा प्रस्तुत क्लेम विवरण का जवाब अप्रार्थी पक्ष ने दिया है।

3. प्रार्थी श्रमिक खिंवाराम (जिसे चलकर केवल प्रार्थी श्रमिक कहा जायेगा) द्वारा प्रस्तुत क्लेम विवरण में अंकित तथ्य इस प्रकार है कि प्रार्थी श्रमिक अप्रार्थी दूर संचार विभाग के नियोजन में मंडल अभियन्ता दूर संचार परियोजना [माईक्रोवेव (लालगढ़)] के नियोजन में 14-3-83 को दैनिक वेतन भोगी श्रमिक के रूप में चौकीदार के पद पर माईक्रोवेव टावर श्री डूंगरगढ़ पर नियुक्त हुआ जहां वह नियुक्ति तिथि से सेवा पृथक करने की तिथि 9-7-84 तक बिना किसी व्यवधान के कार्यरत रहा है और इस दौरान इसके कार्य एवं सेवा के सम्बन्ध में किसी प्रकार की कोई शिकायत अथवा आरोप नहीं रहा और उसका कार्य पूर्णतया संतोषप्रद रहा। अप्रार्थी संस्थान एक औद्योगिक संस्थान रहा है और प्रार्थी की कार्य प्रकृति एवं शारीरिक श्रम का कार्य होने से प्रार्थी कर्मकार रहा है इस प्रकार प्रार्थी एवं अप्रार्थी का सम्बन्ध कर्मकार व नियोजक का रहा है और उसकी सेवायें अप्रार्थी के नियोजन में एक कलेण्डर वर्ष में 240 दिन से कहीं अधिक लगातार हो जाने से वह एक औद्योगिक कर्मकार हो गया था। ऐसे में उसकी सेवा अधिनियम एवं औद्योगिक विवाद नियमों के आज्ञापक प्रावधानों के विपरीत कानूनन समाप्त नहीं की जा सकती। परन्तु अप्रार्थी द्वारा मौखिक आदेश दिनांक 9-7-84 को बाद दोपहर से उसकी सेवा में बतौर छंटनी के समाप्त करते हुए 10-7-84 को काम पर आने से मना करके कर दी और ऐसा करने से पूर्व उसे एक माह का नोटिस अथवा नोटिस वेतन व छंटनी

मुआवजा राशि का भुगतान नहीं किया और अप्रार्थी द्वारा सेवा पृथक करने से पूर्व प्रार्थी जैसे कर्मकारों की वरिष्ठता सूची जारी नहीं की और न कार्यालय के नोटिस बोर्ड पर ही चप्पा की और इस प्रकार नियम 1957 की धारा नियम 77-78 का उल्लंघन करते हुए उसकी सेवा समाप्त की गयी है और उसके साथ व बाद के नियोजित कर्मकारों को सेवा पृथक नहीं किया गया इस प्रकार अधिनियम की धारा 25-जी का उल्लंघन भी किया गया है। अप्रार्थी संस्थान में प्रार्थी के पद का कार्य एवं पद होते हुए भी मात्र बदनीयति से श्रमिक विरोधी नीति अपनाते हुए उसकी सेवा समाप्त की गयी और सारी कार्यवाही अधिनियम की पांचवीं अनुसूची के तहत अनफेयर लेबर प्रैक्टिस की रही है क्योंकि प्रार्थी को सेवापृथक करने के पश्चात् अपने चहेते व्यक्ति दुर्गाराम को प्रार्थी के स्थान पर नियुक्त किया गया है जबकि प्रार्थी नियोजन के लिये तत्पर व लगनशील था फिर भी उसको नियोजन के हक से जानबूझकर वंचित रखा गया जो अधिनियम की धारा 25-एच का उल्लंघन है। प्रार्थी द्वारा अपने क्लेम में यह भी अंकित किया गया है कि प्रार्थी की सेवा समाप्त करने पर उसके द्वारा अप्रार्थी को सम्यक अभ्यावेदन एवं निवेदन करने पर अप्रार्थी द्वारा उसे पुनः नियोजित करने का मौखिक आश्वासन तो दिया परन्तु 15-11-95 को इन्कार कर दिया इसी कारण वह अपना सेवा पृथक का विवाद समय पर नहीं उठा सका और देरी से उठा सका। अंत में यह भी निवेदन किया कि प्रार्थी स्वयं की इच्छा से काम छोड़कर नहीं जाना अंकित करते हुए पुनः देय सभी लाभों सहित अप्रार्थी के नियोजन में पुनः बहाल करने की प्रार्थना की गयी है।

4. अप्रार्थी नियोजक पक्ष द्वारा प्रस्तुत जवाब दावे में प्रकरण का प्रतिवाद करते हुए 1-4-83 को माईक्रोवेव टावर श्रीडूंगरगढ़ पर प्रार्थी को नियुक्त करने एवं प्रार्थी द्वारा 14-3-83 से 9-7-84 तक अप्रार्थी के नियोजन में निरन्तर कार्य करने को अस्वीकार करते हुए यह जवाब दिया गया है कि प्रार्थी को पूर्णतया अस्थायी व आकस्मिक तौर पर संचालित कार्य योजनाओं पर कार्य की आवश्यकता के अनुसार दैनिक मजदूरी पर कार्य सौंपा गया था जिस पर प्रार्थी जब इच्छा होती तो कार्य पर आता और इच्छा नहीं होने पर स्वतः ही बिना किसी सूचना के कार्य पर आना बन्द कर देता, प्रार्थी आकस्मिक दैनिक मजदूर होने के कारण ऐसा करने को स्वतंत्र था, अप्रार्थी का संस्थान औद्योगिक संस्थान नहीं रहा है बल्कि वह राष्ट्र हित में जन कल्याण हेतु भारत सरकार द्वारा संचालित विकासशील योजनाओं को मूर्त रूप देने का सोवें फंक्शन संपादित करता है ऐसे राजकीय विभाग को न तो उद्योग कहा जा सकता है और न ही औद्योगिक संस्थान, अप्रार्थी विभाग में कार्य करने वाले दैनिक मजदूरों पर औद्योगिक विवाद अधिनियम के आज्ञापक प्रावधान लागू नहीं होते हैं, दिनांक 9-7-84 को बाद दोपहर से सेवायें बतौर छंटनी के समाप्त करने और 10-7-84 से काम पर नहीं आने के आदेश देने को अस्वीकार करते हुए यह भी अंकित किया है कि जुलाई माह 1984 में प्रार्थी द्वारा अप्रार्थी के नियोजन में एक दिवस भी कार्य नहीं किया अतः 9-7-84 को छंटनी किये जाने का कथन स्वतः ही सिद्ध हो जाता है, अप्रार्थी का जवाब है कि प्रार्थी स्वेच्छा से ही कार्य छोड़कर भाग गया था। प्रार्थी को अप्रार्थी द्वारा कभी भी सेवामुक्त नहीं किया गया अतः अधिनियम के प्रावधानों की पालना करने की आवश्यकता ही नहीं थी। अन्य सभी तथ्यों के अस्वीकार करते हुए यह भी अंकित किया गया है

कि प्रार्थी ने इस विवाद को उत्पन्न करने में हुए विलम्ब को छुड़ाने के लिये 15-11-95 को नियोजन में लिखे जाने की इन्कारी का तथ्य गलत व मनगढ़न्त अंकित किया है, प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है। अप्रार्थी ने विशेष कथनों में चरण सं. 13 में प्रार्थी के जुलाई 83 से जुलाई 84 के मध्य के सभी कार्य दिवसों का वर्णन अंकित करते हुए जुलाई 84 में एक दिन भी कार्य पर नहीं आया और जून 84 में 23 दिन कार्य करने के पश्चात् प्रार्थी ने बिना किसी सूचना के कार्य पर आना बन्द कर दिया तथा संभवतया बेहतर रोजगार मिल जाने की वजह से कार्य से भाग गया जो एबन्डनमेंट ऑफ सर्विस की श्रेणी में आता है, प्रार्थी द्वारा यह विवाद असाधारण विलम्ब से उत्पन्न करने का कोई तथा विलम्ब का यथेष्ट कारण प्रकट नहीं किया गया है इससे भी यह प्रमाणित होता है कि प्रार्थी बेहतर रोजगार मिल जाने की वजह से ही कार्य छोड़कर भाग गया था अथवा विवाद खारिज होने योग्य है तथा प्रार्थी द्वारा अप्रार्थी को गलत नाम से पक्षकार निर्मित किया गया है इस आधार पर भी प्रार्थी का यह विवाद प्रसंग चलने योग्य नहीं है। अंत में प्रार्थी का क्लेम खारिज करने की प्रार्थना की गयी है।

5. पक्षकारों द्वारा अपने-अपने पक्ष समर्थन में साक्ष्य पेश किया गया है, प्रार्थी पक्ष का साक्ष्य में स्वयं प्रार्थी खींवाराम द्वारा अपना शपथपत्र प्रस्तुत किया गया है और अप्रार्थी पक्ष की ओर से केसाराम मण्डल अभियन्ता का शपथपत्र पेश हुआ है, दोनों पक्षों द्वारा एक-दूसरे पक्ष के साक्षी से जिरह की गयी है और प्रलेखीय साक्ष्य भी पेश की गयी है।

6. बहस सुनी गयी एवं पत्रावली का अवलोकन किया गया। हमारे समक्ष लंबित इस प्रसंग के निस्तारण के लिये प्रमुख रूप से विचारणीय प्रश्न यही है कि क्या प्रार्थी श्रमिक खींवाराम को उसके नियोजक अप्रार्थी द्वारा दिनांक 10-7-1984 से सेवापृथक करना उचित एवं न्यायसंगत था यदि नहीं तो वह किस शहत को पाने का अधिकारी है?

इस विचारणीय बिन्दु को सिद्ध करने का भार प्रार्थी श्रमिक पर ही था।

7. इस सम्बन्ध में प्रार्थी श्रमिक खींवाराम ने अपने शपथपत्र में क्लेम के तथ्यों की पुनरावृत्ति करते हुए अपनी नियुक्ति दूर संचार विभाग के नियोजन में माईक्रोवेव लालगढ के अधीन 14-3-83 से दैनिक वेतन भोगी श्रमिक के रूप में चौकीदार के पद पर माईक्रोवेव टावर डुंगरगढ पर होनी एवं सेवामुक्ति तिथि 9-7-84 तक बिना किसी व्यवधान के लगातार कार्य करना बताया है, प्रार्थी के कार्य की प्रकृति शारीरिक श्रम और कौशलपूर्ण कृत्य की थी, प्रार्थी ने अप्रार्थी के अधीन एक कलेण्डर वर्ष में 240 दिन से अधिक लगातार सेवा की है फिर भी अप्रार्थी द्वारा औद्योगिक विवाद अधिनियम एवं नियमों के आज्ञापक प्रावधानों के विपरीत उसकी सेवायें बतौर छंटनी के समाप्त कर दी गयी एवं ऐसा करने के पूर्व प्रार्थी जैसे कार्यरत कर्मकारों की वरिष्ठता सूची का प्रकाशन नहीं किया गया। प्रार्थी को नियमानुसार नोटिस अथवा नोटिस वेतन एवं मुआवजा राशि का भुगतान भी नहीं दिया गया। अप्रार्थी संस्थान के बीकानेर मण्डल के अधीन 100 से अधिक कर्मकार नियोजित रहे हैं। प्रार्थी के साथ एवं बाद के नियोजित कर्मकारों को सेवा से पृथक नहीं किया गया, प्रार्थी को सेवा से पृथक करने के पश्चात् नई नियुक्तियां

भी की गयी है परन्तु प्रार्थी को नई नियुक्ति से भी वंचित रखा गया है। प्रार्थी ने स्वेच्छा से सेवा का परित्याग नहीं किया था बल्कि अप्रार्थी ने अपने मौखिक आदेश से 9-7-84 को बाद दोपहर से ही सेवायें समाप्त करते हुए 10-7-84 को काम पर नहीं आने का आदेश दिया, प्रार्थी ने अप्रार्थी के अधीन किसी निर्धारित योजना निश्चित अर्द्धदि के लिये एवं संविदा पर कार्य नहीं किया है बल्कि प्रार्थी का निवीजन स्थाई कार्य कर रहा है। सेवा समाप्ति के पश्चात् प्रार्थी द्वारा अप्रार्थी को निवेदन करने पर उसे सेवा में लिये जाने का मौखिक आश्वासन दिया गया इस कारण प्रार्थी अपना विवाद प्रस्तुत नहीं कर सका एवं 15-11-95 को पुनः सेवा में लेने से मौखिक इन्कारी होने पर ही प्रार्थी ने सेवापृथक का विवाद सहायक श्रम आयुक्त, जयपुर के समक्ष प्रस्तुत किया जो प्रदर्श डब्ल्यू 1 है तथा भारत सरकार को प्रेषित रिपोर्ट प्रदर्श डब्ल्यू 2 है। इसके पश्चात् माननीय उच्च न्यायालय जोधपुर के निर्णय दिनांक 20-12-01 की अनुपालना में इस विवाद को रेफरेन्स करने का आदेश दिया गया। प्रार्थी को सेवा का मूल रिकार्ड अप्रार्थी के कब्जे में है जो ज्ञानपूर्वक न्यायालय में प्रस्तुत नहीं किया गया है। प्रार्थी सेवामुक्ति तिथि से ही बेरोजगार है तथा अपने जीवन निर्वाह हेतु कर्जदार हो गया है। प्रार्थी ने अपने प्रतिपरीक्षण में स्वीकार किया है कि वह माईक्रोवेव टावर डुंगरगढ पर काम करता था एवं उसकी उपस्थिति रजिस्टर में लगती थी। प्रदर्श एम-1 से 7 उपस्थिति रजिस्टर की फोटो प्रतियां हैं जिनमें सेही उपस्थिति सही दर्ज की हुई है तथा प्रदर्श एम-1 से 7 में दिखाई हुई हाजरी के अतिरिक्त मैंने और कोई काम नहीं किया है। यह कहना गलत है कि जून 84 के पश्चात् मैं स्वयं काम छोड़कर चला गया होऊं बल्कि मुझे 9-7-84 को डी.ई.टी. सोहनलाल ने मौखिक आदेश से हटाया था, मुझे हटाने के बाद दुर्गाराम प्रजापति को लगाया था जिसकी नियुक्ति मारीख मुझे याद नहीं है। हटाने के बाद मैं प्राईमेट काम करता हूँ, मैं पाईप फिटिंग का काम भी कर लेता हूँ और महीने में करीब 800 कभी 900 रुपये मजदूरी कर लेता हूँ। हटाते समय मुझे 310/- रुपये मिलते थे, वह कहना गलत है कि अधिक मजदूरी मिलने के कारण मैं स्वयं काम छोड़कर चला गया होऊं।

इसी सम्बन्ध में अप्रार्थी नियोजक के साक्षी केसाराम ने अपने शपथपत्र में जवाब के तथ्यों का पुनरावृत्ति करते हुए बताया कि प्रार्थी को 14-3-83 से माईक्रोवेव टावर डुंगरगढ पर नियुक्ति नहीं दी गयी और प्रार्थी ने अप्रार्थी के नियोजन में 14-3-83 से 9-7-84 तक निरन्तर कार्य नहीं किया है। प्रार्थी को पूर्णतया आकस्मिक व अस्थायी तौर पर संचालित कार्य योजनाओं पर कार्य की आवश्यकता के अनुसार दैनिक मजदूरी पर आकस्मिक श्रमिक का कार्य सौंपा गया था और प्रार्थी अपनी इच्छा से ही कार्य पर आता था और अपनी इच्छा से कार्य पर आना बन्द कर देता था। अप्रैल 83 से जुलाई 84 तक की अवधि की उपस्थिति शीट प्रदर्श एम-1 से 7 के रूप में प्रस्तुत की गयी है, जब-जब प्रार्थी ने कार्य किया है उसकी उपस्थिति एक उपस्थिति शीट पर अंकित की जाती थी, प्रदर्श एम-1 से 7 में दर्शायी गयी उपस्थिति के अलावा प्रार्थी ने एक दिवस भी कार्य नहीं किया है। जून 84 में 23 दिन कार्य करने के पश्चात् प्रार्थी ने बिना किसी सूचना के कार्य पर आना बन्द कर दिया तथा जुलाई 84 में एक दिवस भी कार्य नहीं किया। प्रार्थी का यह कथन झूठा है कि उसको 10-7-84 को छंटनी करते हुए सेवामुक्ति कर दिया था बल्कि जून 84

के पश्चात् प्रार्थी स्वतः ही कार्य छोड़कर के भाग गया था, अप्रार्थी संस्थान कभी भी औद्योगिक संस्थान नहीं रहा, प्रार्थी ने यह विवाद असाधारण विलम्ब से प्रस्तुत किया है और विलम्ब का कोई कारण नहीं बतलाया है। अप्रार्थी द्वारा प्रार्थी को तो सेवा से पृथक् किया गया और न ही विधि के किसी प्रावधान का उल्लंघन किया गया, प्रार्थी का यह कथन गलत है कि उसे 9-7-84 को सोहनलाल डीईटी ने हटाया। सोहनलाल मल्लन सेवानिवृत्ति प्राप्त कर चुके हैं। गवाह ने प्रतिपरीक्षण में स्वीकार किया कि प्रार्थी आकस्मिक श्रमिक था जिसे आवश्यकता होने पर काम पर रखा था, लोग-बाग स्वयं ही आकर हमते पूछते थे कि काम है क्या तो हम काम होने पर उसे रख लेते थे। सन् 83-84 में मैं बीकानेर में पद स्थापित नहीं था, बाहर पदस्थापित था। जवाब की पद सं. 13 में प्रार्थी के कार्य दिवसों का विवरण सही अंकित किया गया है, प्रार्थी की उपस्थिति शीट से निर्धारित होती थी और आकस्मिक श्रमिकों की एक ही उपस्थिति शीट में उपस्थिति अंकित की जाती थी। चूंकि श्रमिक नियमित नहीं था और हमसे पूछकर नहीं गया था इसलिये उसे किसी प्रकार का मुआवजा, नोटिस या नोटिस मुआवजा नहीं दिया तथा वापिस आने का नोटिस भी नहीं दिया और वरिष्ठता सूची नहीं बनाई। सन् 1984 के बाद भी हमारे संस्थान में नियमित कार्य चल रहा है।

8. विद्वान पक्षकारों की बहस एवं पत्रावली के अवलोकन से हम देखते हैं कि प्रार्थी ने अपने कार्य की अवधि 14-3-83 से 9-7-84 बताई है जबकि अप्रार्थी नियोजक ने अपने जवाब के पैरा सं. 13 में प्रार्थी की अवधि जुलाई 83 से जुलाई 84 तक 343 दिन दर्शायी है एवं इसकी पुष्टि में प्रदर्श एम-1 से 7 उपस्थिति शीट की छायाँ प्रस्तुत करते हुए यह दर्शाया है कि जून 84 में प्रार्थी ने 23 दिन कार्य किया और इसके पश्चात् जुलाई 84 में प्रार्थी ने एक भी दिन कार्य नहीं किया, इस तथ्य को स्वयं प्रार्थी ने भी इस प्रकार स्वीकार किया है कि प्रदर्श एम-1 से 7 में उसकी उपस्थिति सही दर्शायी गयी है एवं इसके अलावा उसने और काम नहीं किया है। प्रदर्श एम-7 में माह जुलाई 84 में प्रार्थी द्वारा एक दिन भी कार्य करने का उल्लेख नहीं है, प्रार्थी द्वारा इस तथ्य को अर्थात् प्रदर्श एम-7 को स्वीकार कर लेने से यह सिद्ध होता है कि प्रार्थी ने स्वयं द्वारा बतलाई गई सेवामुक्ति तिथि 9-7-84 के पूर्व 12 माह में जुलाई 83 से जून 84 तक ही कार्य किया है और कथित सेवामुक्ति दिनांक 9-7-84 को वह अप्रार्थी के नियोजन में नहीं था। इस प्रकार प्रार्थी के जून 84 के पश्चात् 1 जुलाई 84 से ही अप्रार्थी के नियोजन में कार्य करने की पुष्टि किसी भी प्रकार से नहीं होती है एवं इस तथ्य को स्वयं श्रमिक ने भी स्वीकार किया है। इससे श्रमिक का यह तर्क गलत सिद्ध हो जाता है कि अप्रार्थी ने 9-7-84 को बाद दोपहर से उसकी सेवायें समाप्त कर दी एवम् 10-7-84 से नहीं आने को कहा। जब स्वयं श्रमिक प्रार्थी ने 1 जुलाई 84 से अप्रार्थी के अधीन कार्य पर उपस्थित ही नहीं हुआ तब फिर 9-7-84 को बाद दोपहर से प्रार्थी की सेवायें अप्रार्थी द्वारा मौखिक आदेश से किस प्रकार समाप्त की गयी इसका कोई स्पष्टीकरण प्रार्थी श्रमिक ने नहीं दिया है। प्रार्थी श्रमिक ने स्वीकार किया है कि अप्रार्थी के नियोजन में उसे हटते समय 310/- रुपये मिलते थे जबकि बाद में वह प्रतिमाह मज़दूरी करके पाईप फिटिंग आदि करके कभी 800/-, कभी 900/- रु. की आय अर्जित करता है इससे भी नियोजक के इस तर्क की पुष्टि होती है कि प्रार्थी ने बेहतर रोजगार की

तलाश में अप्रार्थी का नियोजन छोड़ा है और जून 84 के पश्चात् प्रार्थी ने अप्रार्थी संस्थान में कार्य पर आना बन्द कर दिया। प्रार्थी ने यह विवाद बहुत ही असाधारण विलम्ब से प्रस्तुत किया है, प्रार्थी ने अपनी सेवामुक्ति की तिथि 9-7-84 को मौखिक आदेश से 10-7-84 से करनी बतलाई है जबकि इस विवाद का प्रसंग 30-1-2001 अर्थात् पौने सतरह वर्षों बाद प्रस्तुत हुआ है, प्रार्थी ने इस विलम्ब का कोई कारण नहीं बतलाया है। प्रार्थी के इस तर्क की भी पुष्टि नहीं होती है कि सेवा समाप्ति के पश्चात् अप्रार्थी उसे मौखिक आश्वासन देता रहा और 15 नवम्बर 95 को अंतिम रूप से मना करने पर ही उसने यह विवाद प्रस्तुत किया हो। 15 नवम्बर 95 को अप्रार्थी द्वारा प्रार्थी को पुनः नियोजित करने से अंतिम रूप से इन्कारी करने की पुष्टि भी किसी भी प्रकार के दस्तावेज अथवा साक्ष्य से नहीं होती है एवं प्रार्थी का देरी बाबत दिया गया स्पष्टीकरण बलहीन एवं सारहीन पाया जाता है। इन हालात में 2000(1) एस.सी.टी. 1088 में *Neaungadi Bank Ltd. Versus K.P. Madhavankutty* के निर्णय में माननीय उच्चतम न्यायालय द्वारा एवं 2002 (1) डब्ल्यू. एल.सी. 501 में मण्डल वन अधिकारी विरुद्ध रघुबीर एवं अन्य के निर्णय में तथा 2000(2) डब्ल्यू. एल.सी. 649 में नरेन्द्र सिंह सोलंकी विरुद्ध शां एण्ड फिनिशिंग प्रोडक्शन व अन्य के निर्णय में माननीय राजस्थान उच्च न्यायालय द्वारा प्रतिपादित सिद्धांत के अनुसार यह विवाद अत्यधिक विलम्ब से प्रस्तुत किये जाने के कारण प्रार्थी सेवा में पुनः बहाली का अवार्ड प्राप्त करने का अधिकारी नहीं है।

9. उपरोक्त विवेचन के आधार पर हम देखते हैं कि अप्रार्थी नियोजक द्वारा दिनांक 10-7-84 से प्रार्थी की सेवायें समाप्त करने की पुष्टि किसी भी रूप में नहीं होती है, प्रार्थी द्वारा यह विवाद अत्यधिक विलम्ब से प्रस्तुत किए जाने के कारण भी प्रार्थी पुनः बहाली का अवार्ड प्राप्त करने का अधिकारी नहीं है। प्रार्थी कोई अनुतोष, राहत एवम् राशि प्राप्त करने का अधिकारी नहीं है।

10. अतः केन्द्रीय सरकार द्वारा प्रेषित इस प्रसंग को उत्तरित करते हुए यह पंचाट इस प्रकार से पारित किया जाता है कि प्रार्थी खींवाराम को अप्रार्थी नियोजक द्वारा 10-7-84 से सेवायें समाप्त करने की पुष्टि किसी भी रूप में नहीं होती है, प्रार्थी द्वारा यह विवाद अत्यधिक विलम्ब से प्रस्तुत किए जाने के कारण भी प्रार्थी पुनः बहाली का अवार्ड प्राप्त करने का अधिकारी नहीं है। प्रार्थी कोई अनुतोष, राहत एवम् राशि अप्रार्थी से प्राप्त करने का अधिकारी नहीं है।

उक्त अधिनिर्णय अधिनियम की धारा 17(1) के अंतर्गत प्रकाशनार्थ केन्द्रीय सरकार को भेजा जावे।

11. आज दिनांक 13 मार्च, 2003 को विवृत न्यायालय में लिखाई जाकर सुनाई गई।

के. एल. माथुर, न्यायाधीश

नई दिल्ली, 7 अक्टूबर, 2003

का. आ. 3152.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारी के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, बीकानेर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-2003 को प्राप्त हुआ था।

[सं. एल-40011/13/97-आई. आर. (डी.यू.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 7th October, 2003

S. O. 3152.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bikaner as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Deptt. of Post and their workman, which was received by the Central Government on 7-10-03.

[No. L-40011/13/97-IR(DU)]

B. M. DAVID, Under Secy.

अनुबंध

औद्योगिक विवाद अधिकरण, बीकानेर

केन्द्रीय औद्योगिक विवाद प्रसंग सं. 6 सन् 1998

श्री भैरूरतन पुत्र श्री ईश्वरलाल, पोस्टमेन-मार्फत दि जनरल सैक्रेटरी, बीकानेर डिविजन ट्रेड यूनियन काउन्सिल, 1-खजांची बिल्डिंग, बीकानेर

—प्रार्थी/श्रमिक

विरुद्ध

पोस्ट मास्टर, हेड पोस्ट आफिस, बीकानेर-334001, बीकानेर

—अप्रार्थी/नियोजक

प्रसंग अन्तर्गत धारा 10(1)(घ), औद्योगिक विवाद अधिनियम, 1947

न्यायाधीश—श्री के. एल. माथुर, आर.एच.जे.एस.

उपस्थिति :—

- (1) श्री रमेश चन्द्र शुक्ला, श्रमिक प्रतिनिधि, प्रार्थी पक्ष के लिये
- (2) श्री सुधीर श्रीमाली, अधिवक्ता, अप्रार्थी नियोजक के लिये

अधिनिर्णय

दिनांक : 25 अप्रैल, 2003

श्रम मंत्रालय, भारत सरकार ने औद्योगिक विवाद अधिनियम 1947 (जिसे आगे चलकर केवल अधिनियम कहा जायेगा) की धारा 10 की उपधारा (1) के खण्ड (घ) के अधीन जारी आदेश क्रमांक एल-40011/13/97-आई.आर. (डी.यू.) दिनांक 16-4-98 के द्वारा

प्रेषित इस प्रसंग के अन्तर्गत निम्न विवाद अधिनिर्णयार्थ इस अधिकरण में भेजा था :

“Whether the action of the Post Master, Head Post Office, Bikaner, by stopping one increment for 2 years and 10 months vide his order No. 1-2/16/1-92 dt. 3-7-91 of workman Sh. Bheru Ratan, Postman is justified as no inquiry was conducted as per the principle of natural justice? If not, to what relief the workman is entitled to?”

2. प्रसंग प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया गया दोनों पक्षकारों द्वारा अपने-अपने अभिवचन प्रस्तुत किए गए हैं अर्थात् प्रार्थी पक्ष की ओर से प्रस्तुत क्लेम विवरण का जवाब अप्रार्थी नियोजक द्वारा दिया गया है।

3. प्रार्थी भैरूरतन (जिसे आगे चलकर प्रार्थी श्रमिक कहा जावेगा) द्वारा प्रस्तुत क्लेम विवरण में अंकित बन्ध संक्षेप में इस प्रकार है कि उसकी प्रथम नियुक्ति पोस्टमेन के पद पर 11-12-71 को हुई थी, वह एक नियमित व स्थाई कर्मचारी था तथा उसके सेवाकाल में विभाग अप्रार्थीगण को नहीं थी, अप्रार्थीगण द्वारा प्रार्थी को दिनांक 8-5-91 को एक आरोप पत्र दिया गया था जिसका जवाब प्रार्थी ने 1-7-91 को पेश कर दिया था जिस पर नियोजक द्वारा कोई विधिवत जांच नहीं की गई एवम् जांच किए एवम् दोष साबित किए बिना ही प्रार्थी को अनुचित रूप से सजा दे दी और उसकी आगामी वेतन वृद्धि रूप. 1070 के स्टेज पर 34 माह के लिए रोकने का आदेश दे दिया, प्रार्थी ने इस आदेश के विरुद्ध 13-9-91 को अधीक्षक डाक विभाग बीकानेर को अपील पेश कर दी थी परन्तु अपील को अपील अधिकारी ने बिना सुनवाई किए रद्द कर दिया जिसके विरुद्ध भी प्रार्थी ने नियमानुसार दूसरी अपील मेम्बर (पी.) डाक सेवा बोर्ड, डाक भवन नई दिल्ली को 1-6-93 को पेश कर दी जो भी 12-6-96 को बिना सुने व समुचित अवसर दिए बिना ही खारिज कर दी गई है। प्रार्थी के अनुसार अप्रार्थीगण का यही कृत्य डाक कर्मचारी सेवा नियमों के केन्द्रीय सरकार कर्मचारी सेवा नियमों के अंतर्गत तथा अनुशासनात्मक कार्यवाही करने के नियमों के विरुद्ध होने से अनुचित एवम् अवैधानिक कृत्य है और निरस्तरीय है अप्रार्थी द्वारा इस संबंध में सी.सी.एस. एवम् सी.सी.ए. नियम 1965 व तत्सम्बन्धित अन्य नियमों का घोर उल्लंघन किया है तथा प्रार्थी को अपने आपको निर्दोष साबित करने का कोई भी समुचित अवसर नहीं दिया गया है। अंत में अप्रार्थीगण का सजात्मक आदेश सं. आई-2/16/91-92 दिनांक 30-7-91 निरस्त किया जाने एवम् रोकी गई वार्षिक वेतन वृद्धियां मय एरियर के भुगतान कराने की प्रार्थना की गई है।

4. अप्रार्थीगण अर्थात् पोस्ट मास्टर, हेड पोस्ट आफिस, बीकानेर एवम् अधीक्षक डाक विभाग, रानी बाजार, बीकानेर द्वारा प्रस्तुत जवाब दावे में क्लेम के तथ्यों को अस्वीकार करते हुए बताया है कि प्रार्थी की प्रथम नियुक्ति ग्रुप डी श्रेणी कर्मचारी के पद पर 11-12-71 को हुई थी न कि पोस्टमेन पद पर, अप्रार्थी के अनुसार पोस्टमेन पद पर उसको नियुक्ति 11-7-77 से हुई थी, प्रार्थी ने मुख्य डाकघर में पोस्टमेन के पद पर रहते हुए 4-6-91 को 12.30 बजे मुख्य डाकघर के अन्य पोस्टमेनों के साथ मिलकर पवनपुरी बीकानेर के पोस्टमेन स्टाफ को

अपनी सीट एवम् कार्य से उठाने को बाध्य किया और सरकारी काम में बाधा डाली तथा उप डाकपाल व स्टाफ को गालीगलोच किया तथा दरवाजे बजाए, स्टाफ के सदस्यों को धमकी दी, लाईट कनेक्शन काट दिया, साईकिले पंकचर कर दी, टायर ब्लेड से काट दिया—इस अनुशासनहीनता पर प्रार्थी के पोस्टमास्टर, बीकानेर ने आरोप पत्र केन्द्रीय सिविल सेवा नियमावली 1965 के नियम 16 के अंतर्गत दिया तथा 10 दिन के भीतर अपना अभ्यावेदन प्रस्तुत करने को कहा गया, प्रार्थी द्वारा कुछ दस्तावेजों के निरीक्षण करने की मांग की जो उसने निरीक्षण कर लेने के बावजूद भी निरीक्षण को कोई लिखित प्रमाणपत्र नहीं दिया और अनुशासन हीनता का परिचय दिया जिस पर पोस्टमास्टर ने अपने ज्ञापन दिनांक 30-7-91 द्वारा प्रार्थी की वार्षिक वेतन वृद्धि दो वर्ष 10 माह तक बिना संचयी प्रभाव के रोकने का दंडादेश दिया जिसके विरुद्ध प्रार्थी द्वारा प्रस्तुत अपील खारिज कर दी गई। विभागीय नियमावली का उल्लंघन नहीं किया गया है और की गई कार्यवाही पूर्णतया वैधानिक थी उसके विरुद्ध पारित दंडादेश निरस्तनीय नहीं है और वह कोई अनुतोष पाने का अधिकारी नहीं है। विशेषज्ञों में नियोजक ने प्रार्थी के केन्द्रीय सरकार के कर्मचारी होने और प्रार्थी पर केन्द्रीय सरकार के केन्द्रीय सेवा नियम लागू होना बताते हुए यह मामला इस न्यायालय के क्षेत्राधिकारी के अंतर्गत नहीं आना और केन्द्रीय प्रशासनिक अधिकरण द्वारा सुनवाई करना अंकित किया गया है। पोस्ट आफिस उद्योग की क्षेत्रों में नहीं आता है इस कारण भी यह प्रकरण खारिज होने योग्य है, यदि दंडा देश या जांच कार्यवाही ही में कोई त्रुटि होती है तो अप्रार्थी विभाग न्यायालय द्वारा जांच कार्यवाही करने की प्रार्थना करते हुए प्रार्थी का विवाद खारिज करने की प्रार्थना भी की गई है।

5. पक्षकारों द्वारा अवसर दिए जाने क बावजूद भी कोई साक्ष्य प्रस्तुत नहीं की गई है।

6. बहस सुनी गई और पत्रावली का अवलोकन किया गया। हमारे समक्ष लंबित इस प्रसंग के निस्तारण के लिए प्रमुख रूप से विचारणीय प्रश्न यही है कि क्या प्रार्थी की वार्षिक वेतन वृद्धि आदेश दिनांक 30-7-91 के द्वारा बिना जांच के दो वर्ष 10 माह के लिए रोकना उचित है? यदि नहीं तो प्रार्थी क्या राहत प्राप्त करने का अधिकारी है?

7. इस बिन्दु को सिद्ध करने का भार प्रार्थी पक्ष पर ही था। यहां यह उल्लेख किया जाना समीचीन होगा कि पूर्व में प्रार्थीपक्ष की ओर से कोई हाजिर नहीं आने के कारण दिनांक 31-8-91 को पक्षकारों के मध्य “कोई विवाद नहीं था” पंचाट पारित कर दिया गया था जो दिनांक 24-9-02 के आदेश से निरस्त हो जाने के बाद प्रकरण में पुनः कार्यवाही प्रारंभ हुई है तत्पश्चात् श्रमिक पक्ष को साक्ष्य प्रस्तुत करने के अनेक अवसर प्रदान किए गए परन्तु प्रार्थी पक्ष की ओर से किसी प्रकार की कोई साक्ष्य प्रस्तुत नहीं हुई है तब उसकी साक्ष्य का अवसर बंद किया गया है। नियोजक पक्ष द्वारा भी अवसर दिए जाने के बावजूद भी कोई साक्ष्य पेश नहीं की गई है। पत्रावली के अवलोकन से हम यह भी देखते हैं कि प्रार्थी पक्ष ने अथवा अप्रार्थी पक्ष ने किसी प्रकार की कोई साक्ष्य मौखिक अथवा प्रलेखीय पेश नहीं की है, प्रार्थी अपनी साक्ष्य से यह प्रमाणित करने में पूर्णतया विफल रहा है कि उसे प्राकृतिक न्याय के सिद्धान्तों के विपरीत समुचित अवसर प्रदान किए बिना दंडित किया गया

हो, कथित दंडादेश एवम् उससे संबंधित कागजात भी न्यायालय में अवलोकन पेश नहीं हुए हैं इन हालत में प्रमाण के अभाव में यह नहीं कहा जा सकता कि प्रार्थी को वार्षिक वेतन वृद्धि आदेश दिनांक 30-7-91 से दो वर्ष 10 माह की अवधि के लिए रोकना किसी भी रूप में अनुचित एवम् अवैध या उचित एवम् वैध था। परिणामतः प्रार्थी श्रमिक कोई राहत व राशि प्राप्त करने का अधिकारी नहीं है।

8. अतः भारत सरकार द्वारा प्रेषित इस प्रसंग को उत्तरित करते हुए यह पंचाट इस प्रकार से पारित किया जाता है कि आदेश दिनांक 30-7-91 द्वारा दो वर्ष 10 माह की अवधि के लिए प्रार्थी भैरूरतन की वार्षिक वेतनवृद्धि रोकना किसी भी रूप में अनुचित एवम् अवैध होना नहीं कहा जा सकता है। प्रार्थी श्रमिक कोई राहत व राशि प्राप्त करने का अधिकारी नहीं है।

उक्त अधिनिर्णय अधिनियम की धारा 17(1) के अंतर्गत प्रकाशनार्थ केन्द्रीय सरकार को भेजा जावे।

9. आज दिनांक 25-4-2003 को विवृत न्यायालय में सुनवाई गई।

के. एल. माधुर, न्यायाधीश

नई दिल्ली, 7 अक्टूबर, 2003

का. आ. 3153.—औद्योगिक विवाद अधिनियम, 1947 (1947का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय पशु प्रजनन केन्द्र के प्रबंधन के संबंध में औद्योगिक अधिकरण/श्रम न्यायालय, बीकानेर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-2003 को प्राप्त हुआ था।

[सं. एल-42011/57/95-आई. आर.(डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 7th October, 2003

S. O. 3153.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bikaner as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Central Cattle Breeding Centre and their workman, which was received by the Central Government on 7-10-2003.

[No. L-42011/57/95-IR(DU)]

B. M. DAVID, Under Secy.

अनुबंध

औद्योगिक विवाद अधिकरण, बीकानेर

नं. मु. केन्द्रीय औद्योगिक विवाद प्रसंग सं. 1 सन् 1996

तरसेम सिंह पुत्र श्री अमरीक सिंह चौकीदार-मार्फत महामंत्री, बीकानेर डिक्विजन ट्रेड यूनियन काउन्सिल, मुख्यालय खजांची बिल्डिंग, बीकानेर

—प्रार्थी/श्रमिक

विरुद्ध

निदेशक, केन्द्रीय पशु प्रजनन केन्द्र पो. सूरतगढ़ (गंगानगर)

—अप्रार्थी/नियोजक

प्रसंग अन्तर्गत धारा 10(1)(घ), औद्योगिक विवाद अधिनियम, 1947

न्यायाधीश—श्री के. एल. माथुर, आर. एच.जे.एस.

उपस्थिति :—

- (1) श्री भारत भूषण आर्य, श्रमिक प्रतिनिधि, प्रार्थी श्रमिक के लिये
- (2) श्री मदनलाल श्रीमाली, अभिभाषक, अप्रार्थी नियोजक के लिये

अधिनियम

दिनांक : 20 मार्च, 2003

श्रम मंत्रालय, भारत सरकार ने "औद्योगिक विवाद अधिनियम 1947" (जिसे आगे चलकर केवल अधिनियम कहा जावेगा) की धारा 10 की उपधारा (1) के खण्ड (घ) के अधीन जारी अधिसूचना क्रमांक एल.सी.-42011/57/95-आई.आर. (डीयू) दिनांक 30-5-96 द्वारा प्रेषित इस रफ़ैरेन्स के अन्तर्गत निम्न विवाद अधिनियमार्थ इस अधिकरण में भेजा था :

"क्या निदेशक, पशु पालन केन्द्र सूरतगढ़ बीकानेर द्वारा श्री तरसेमसिंह पुत्र श्री अमरीकसिंह, चौकीदार को माह दिसम्बर, 88 से सेवा से पृथक् करना उचित एवम् वैध है? यदि नहीं तो श्रमिक किस रहत का अधिकारी है?"

2. प्रसंग प्राप्त होने पर प्रकरण दर्ज रजिस्टर किया गया। उल्लेखनीय है कि पूर्व में दिनांक 12-9-96 को श्रमिक अथवा श्रमिक प्रतिनिधि के हाजिर नहीं आने पर पक्षकारों के मध्य कोई विवाद नहीं का पंचाट पारित हो गया था जिसका प्रकाशन भी हो चुका तदुपरान्त दिनांक 3-12-99 को पारित आदेश से पुनः वाजवा नंबर पर लिए जाने का प्रार्थना-पत्र स्वीकार होने पर प्रकरण में कार्यवाही पुनः आरंभ हुई है।

3. प्रार्थी श्रमिक तरसेमसिंह (जिसे आगे चलकर केवल प्रार्थी श्रमिक कहा गया है) की ओर से प्रस्तुत क्लेम विवरण में अंकित तथ्य संक्षेप में इस प्रकार से हैं कि श्रमिक की प्रथम नियुक्ति अप्रार्थी नियोजक के अंतर्गत उनके फार्म में चौकीदार के पद पर दिनांक 1-4-80 को हुई थी और उसने माह दिसम्बर, 1988 तक निरंतर सेवा में रहकर कार्य किया था इस अवधि में उसकी सेवा में कोई भी व्यवधान नहीं था,

अप्रार्थी नियोजक ने उसे माह दिसम्बर, 1988 को अवैधानिक रूप से सेवामुक्त कर दिया तथा सेवामुक्ति का कोई कारण भी नहीं बताया और न ही लिखित में नोटिस या सूचना दी और अधिनियम की धारा 25 की पालना नहीं की गई, सेवा मुक्ति के पूर्व कोई नोटिस या नोटिस वेतन एवम् उसके कुल सेवाकाल की कोई मुआवजा राशि भुगतान भी नहीं किया गया और न ही सेवा मुक्ति की कोई सूचना सरकार को भेजी गयी जबकि प्रार्थी ने अपने सेवाकाल के 8 वर्ष पूरे कर लिए थे और प्रत्येक वर्ष में उसकी सेवा 240 दिन से अधिक की रही है और वह औद्योगिक विवाद अधिनियम के प्रावधान के अंतर्गत कर्मकार है और सभी लाभ प्राप्त करने का हकदार है, अप्रार्थी ने प्रार्थी को सेवामुक्त करने से पूर्व समस्त विभागीय कर्मचारियों की वरिष्ठता सूची का प्रकाशन भी नहीं किया गया और प्रथम आये पीछे जाए के मान्य सिद्धान्त की पालना भी नहीं की गई और प्रार्थी को सेवामुक्त करने से पूर्व कोई अन्य कार्य व पद पर काम करने का आफर नहीं दिया और अपने केन्द्र में नए कर्मचारी भर्ती करते समय भी अवसर नहीं देकर अधिनियम की धारा 25-एच का उल्लंघन किया है। अंत में यह भी अंकित किया कि प्रार्थी ने स्वेच्छा से अपनी नौकरी नहीं छोड़ी है और न ही काम पर जाना बंद किया अपितु अप्रार्थी ने उसकी जुबानी आदेश से काम पर नहीं लिया। अंत में प्रार्थी श्रमिक ने अप्रार्थी के नियोजन में पुनः देय सभी लाभों सहित बहाल करने की प्रार्थना की है।

4. दिनांक 3-4-2001 को अप्रार्थी नियोजक की ओर से जवाब दावा प्रस्तुत करके प्रकरण का प्रतिवाद किया गया है और अपने जवाब में प्रार्थी को 1-4-80 को किसी भी पद पर नियुक्ति प्रदान करने से नकारते हुए यह अंकित किया गया है कि प्रार्थी द्वारा पूर्णतया आकस्मिक श्रमिक के रूप में कुछ कार्य दिवसों पर कार्य किया गया था और उसे कार्य के बदले दैनिक मजदूरी का भुगतान किया जाता था, जब मर्जी होती कार्य पर आता तथा इच्छा नहीं होने पर स्वेच्छा से ही कार्य पर आना बंद कर देता था, प्रार्थी का यह कथन असत्य है कि उसने 1-4-80 से दिसम्बर, 1988 तक निरंतर कार्य किया उसके द्वारा विगत एक वर्ष में किये गये कार्य का उल्लेख जवाब दावे की चरण सं. 2 में अंकित करते हुए मार्च, 88 से अक्टूबर, 88 तक की अवधि में कुल 151-1/2 दिन कार्य करना दर्शाया है और यह भी प्रकट किया है कि जनवरी, फरवरी, नवम्बर व दिसम्बर, 88 में एक भी दिन कार्य नहीं किया गया है, अपार्थी का जवाब है कि प्रार्थी माह अक्टूबर, 88 में 19-1/2 दिवस कार्य करने के बाद स्वेच्छा से ही कार्य पर आना बंद हो गया तथा उसने इस बाबत कोई सूचना नहीं दी। अन्य सभी तथ्यों और माह दिसम्बर, 88 में प्रार्थी की सेवा मुक्ति करने को इंकार करते हुए यह भी अंकित किया गया है कि प्रार्थी इस अवधि में अप्रार्थी के नियोजन में कार्यरत ही नहीं था अतः उसे सेवामुक्त करने का प्रश्न ही उत्पन्न नहीं होता है, प्रार्थी ने किसी भी कलेण्डर वर्ष में 240 दिन सेवा अप्रार्थी के नियोजन में पूर्ण नहीं की और न ही वह औद्योगिक कर्मकार था, आकस्मिक श्रमिकों की वरिष्ठता सूची निर्मित किये जाने का कोई प्रावधान नहीं है ऐसे आकस्मिक श्रमिक अपनी मर्जी से कार्य पर आने एवं मर्जी से ही कार्य पर नहीं आने हेतु स्वतंत्र होते हैं, प्रार्थी को इस तथ्य का ज्ञान था कि उसने स्वेच्छा से ही कार्य पर आना बंद कर दिया था इसीलिये उसने यह अभिवचन एडवांस में ही ले लिया है। अपार्थी

का जबाब है कि प्रार्थी स्वेच्छा से ही कार्य छोड़कर चला गया था अतः वह पुनः सेवा में नियोजित होने का अधिकारी नहीं है। विशेष कथनों में यह भी अंकित किया गया है कि यह प्रकरण सेवामुक्ति का न होकर सेवा परित्याग का है और ऐसे मामलों पर अधिनियम के आज़ापक प्रावधान लागू नहीं होते हैं, प्रस्तुत विवाद औद्योगिक विवाद अधिनियम के प्रावधान के अर्थ में औद्योगिक विवाद नहीं है, अप्रार्थी के अनुसार इस विवाद में प्रार्थी तरसेमसिंह एवम् उसकी ओर से अधिकृत प्रतिनिधि द्वारा यह विवाद प्रस्तुत नहीं किया गया है, प्रार्थी द्वारा यह विवाद असाधारण विलम्ब से उत्पन्न किया गया है तथा विलम्ब का कोई कारण भी प्रकट नहीं किया गया है। अंत में अप्रार्थी संस्थान के कार्य राष्ट्र के सोवरन फंक्शन में आने से उद्योग नहीं होना बताते हुए प्रार्थी द्वारा प्रस्तुत इस क्लेम विवरण को स्वयं खारिज करने की प्रार्थना की गयी है।

5. पक्षकारों द्वारा अपने-अपने अभिवचनों की पुष्टि में साक्ष्य भी पेश की है, प्रार्थी पक्ष की साक्ष्य में स्वयं श्रमिक तरसेम सिंह ने अपना शपथपत्र दिया है एवम् नियोजक की ओर से मांगीलाल एग्रीकल्चर फील्डमैन ने अपना शपथपत्र पेश किया है, दोनों पक्षों ने एक-दूसरे पक्ष के साक्षी से जिरह की है और प्रलेखीय साक्ष्य भी पेश की गयी है।

6. विद्वान पक्षकारों की बहस सुनी गयी और पत्रावली का अवलोकन किया गया।

हमारे समक्ष लंबित इस प्रसंग के निस्तारण के लिये प्रमुख रूप से विचारणीय प्रश्न यही है कि क्या प्रार्थी तरसेमसिंह चौकीदार को माह दिसम्बर 88 से अप्रार्थी द्वारा सेवा से पृथक् करना उचित एवम् वैध है? यदि नहीं तो प्रार्थी श्रमिक किस राहत का अधिकारी है।

इससे बिन्दू को सिद्ध करने का भार श्रमिक पक्ष पर था।

7. इस सम्बन्ध में प्रार्थी श्रमिक तरसेमसिंह ने अपने शपथपत्र में क्लेम के तथ्यों की पुनरावृत्ति करते हुए अपनी प्रथम नियुक्ति 1-4-80 से चौकीदार के पद पर अप्रार्थी संस्थान में होनी एवम् इस पद पर लगातार अप्रार्थी के आदेश से दिसम्बर, 88 तक काम करना बतलाया है और यह भी बताया है कि दिसम्बर 88 में उसको सेवामुक्ति कर दिया और सेवामुक्ति के पूर्व प्रार्थी को कोई सूचना, नोटिस या नोटिस वेतन एवम् मुआवजा राशि का भुगतान नहीं किया गया और मौखिक आदेश से हटा दिया गया। प्रार्थी को धारा 25-एफ. औद्योगिक विवाद अधिनियम के प्रावधानों का कोई लाभ नहीं दिया गया जबकि प्रार्थी ने अप्रार्थी के अधीन लगभग 8 वर्ष तक कार्य किया था, प्रार्थी की सेवामुक्ति के पूर्व वरिष्ठता सूची का प्रकाशन नहीं किया गया, प्रार्थी से कनिष्ठ कर्मचारियों को नहीं हटाया गया और बाद में नई नियुक्तियाँ भी की गयीं, प्रार्थी की नियुक्ति विशिष्ट कार्य या अवधि के लिये भी नहीं थी एवम् अप्रार्थी का कार्य मौसमी नहीं था बल्कि स्थाई प्रकृति का कार्य है, प्रार्थी कभी काम छोड़कर नहीं गया, प्रार्थी के निवेदन पर न्यायालय के आदेश के बावजूद भी उससे सम्बन्धित रिकार्ड अप्रार्थी द्वारा प्रस्तुत नहीं किया गया है जबकि इस रिकार्ड से प्रार्थी का 240 दिन का सेवाकाल प्रमाणित हो जाता है। प्रार्थी ने अपनी सेवामुक्ति का विवाद विभागीय यूनियन एवम् ट्रेड यूनियन काउंसिल द्वारा उठाया है जो प्रदर्श डब्ल्यू 1 है, नियोजक

द्वारा इसका उत्तर प्रदर्श डब्ल्यू 2 प्रस्तुत किया गया है एवम् यूनियन द्वारा दिया गया प्रत्युत्तर प्रदर्श डब्ल्यू 3 है तथा समझौता अधिकारी द्वारा राज्य सरकार को प्रेषित असफल वार्ता प्रतिवेदन प्रदर्श डब्ल्यू 4 है। प्रार्थी की सेवामुक्ति करते समय धारा 25, औद्योगिक विवाद अधिनियम एवम् अन्य प्रावधानों की पालना नहीं की गयी इस कारण प्रार्थी की सेवामुक्ति पूर्ण रूप से अवैध है। सेवा मुक्ति के समय से ही प्रार्थी बेरोजगार है तथा उसके गाँव में कोई काम या नौकरी नहीं मिलती है। गवाह ने प्रतिपरीक्षण में बताया कि मुझे मौखिक आदेश से काम पर रखा था और जब भी काम छोड़कर जाता तो छूट्टी का प्रार्थनापत्र देता था, यह कहना गलत है कि अक्टूबर 88 में 19½ दिन काम करके मैंने काम पर आना बन्द कर दिया है। मैं जी काम करता उसकी उपस्थिति मस्टररोल में फील्डमैन लगाता था जो सही लगाता था, न्यायालय में प्रस्तुत मस्टररोल में मेरी हाजरी सही है या नहीं मस्टर रोल सही है या नहीं मुझे पता नहीं, मुझे किस तारीख को हटाया याद नहीं क्योंकि मैं अनपढ़ हूँ। मुकदमे के बारे में जानकारी नहीं होने के कारण मुकदमा देरी से किया है। अब मेरे घर में एक गाय है जिससे काम चलता है और कभी-कभी 45/-रु. रोजाना की दिहाड़ी मिल जाती है। मुझसे कनिष्ठ रुड़ाराम, जगलिया उर्फ जगदीश उषारानी, रामेश्वरी, गुड्डी आदि हैं यह किस तारीख को काम पर लगे पता नहीं। मुझे हटाने के बाद अशोक को काम पर लगाया है जिसकी नियुक्ति तारीख याद नहीं है।

इसी सम्बन्ध में नियोजक के साक्षी मांगीलाल एग्रीकल्चर फील्डमैन का बतलाना है कि मैं एग्रीकल्चर फील्डमैन के पद पर 1975 से ही केन्द्रीय पशु प्रजनन केन्द्र सूरतगढ में पदस्थापित हूँ, वर्ष 1988 में दैनिक मजदूरी पर आकस्मिक श्रमिकों को मस्टररोल पर कार्य की आवश्यकता के अनुसार रखा गया था एवम् श्रमिक की उपस्थिति का अंकन मेरे द्वारा किया जाता था एवम् समस्त श्रमिक मेरे अधीन कार्य करते थे, प्रार्थी तरसेमसिंह द्वारा पूर्णतया आकस्मिक श्रमिक के रूप में दैनिक मजदूरी के आधार पर कुछ दिवसों पर कार्य किया गया था और जब मर्जी होती तब कार्य पर आता और इच्छा नहीं होने पर स्वेच्छा से बिना सूचना के कार्य पर आना बन्द कर देता। प्रार्थी द्वारा 1-4-80 से दिसम्बर 88 तक कार्य करने का कथन गलत है, प्रार्थी ने दिसम्बर 88 से विगत एक वर्ष की अवधि में मार्च व अप्रैल 88 में प्रत्येक माह में 20½ दिन, मई 88 में 17½ दिन, जून 88 में 21 दिन, जुलाई 88 में 18 दिन, अगस्त में 22 दिन, सितम्बर 88 में 22 दिन एवम् अक्टूबर 88 में 19½ दिन कुल कार्य किया है इसके अतिरिक्त प्रार्थी ने एक दिन भी कार्य नहीं किया है, जनवरी 88 से दिसम्बर 88 तक के मस्टररोल प्रदर्श एम. 1 से एम. 38 है। अक्टूबर 88 में प्रार्थी 19½ दिन कार्य करने के पश्चात् स्वेच्छा से ही कार्य पर बिना सूचना के आना बन्द हो गया। प्रार्थी का यह कथन असत्य है कि उसको निदेशक रांगहा ने मौखिक आदेश से दिसम्बर 88 में हटाया। प्रार्थी का यह कथन गलत है कि उससे कनिष्ठ व्यक्ति रुड़ाराम, जगलिया उर्फ जगदीश, उषारानी, रामेश्वरी व गुड्डी के कार्य पर रखते हुए प्रार्थी को हटाया गया बल्कि यह सभी कर्मकार प्रार्थी के कार्य पर लगने से पहले से ही कार्य कर रहे थे तथा प्रार्थी के बाद में अशोक को लगाने का कथन भी असत्य है। प्रार्थी ने यह विवाद असाधारण विलम्ब से उत्पन्न किया है, अप्रार्थी का

संस्थान उद्योग नहीं है। गवाह ने प्रतिपरीक्षण में स्वीकार किया कि जो लोग कार्य करते थे उनकी उपस्थिति रजिस्टर रखते थे और भुगतान मस्टर रोल पर होता था। हमने श्रमिक को नहीं हटाया बल्कि यह स्वयं ही कार्य छोड़कर चला गया था और उस समय वरिष्ठता सूची का प्रकाशन नहीं किया, चूंकि श्रमिक ने 240 दिन पूरे नहीं किये थे इसलिये उसको अनुपस्थिति बाबत कोई नोटिस नहीं दिया। यह कहना गलत है कि हमने श्रमिक को मौखिक आदेश से हटा दिया हो बल्कि वह स्वयं ही कार्य छोड़कर चला गया था।

8. विद्वान पक्षकारों की बहस एवं पत्रावली के अवलोकन से हम देखते हैं कि प्रार्थी श्रमिक ने अपने स्टेटमेंट ऑफ, क्लेम या शपथपत्र में अपनी कथित सेवामुक्ति तिथि का कोई उल्लेख नहीं किया है। यदि किसी व्यक्ति को अवैध रूप से सेवा से हटाया जाता है तो उसका वह तारीख याद नहीं रहना अस्वभाविक आचरण प्रतीत होता है। प्रार्थी ने यह कथन गलत किया है कि न्यायालय के आदेश के बावजूद अप्रार्थी ने उसकी सेवा से सम्बन्धित रिकार्ड न्यायालय में प्रस्तुत नहीं किया है। अप्रार्थी पक्ष ने न्यायालय के आदेश की पालना में प्रार्थी से सम्बन्धित प्रार्थी की सेवामुक्ति के पूर्व 12 महीनों के मस्टररोल न्यायालय में प्रस्तुत किये हैं जिनके अवलोकन से पाया जाता है कि प्रार्थी ने वर्ष 88 में अक्टूबर 88 में 19½ दिन कार्य करने के पश्चात् नवम्बर-दिसम्बर 88 में कोई कार्य नहीं किया है। ऐसी सूरत में अप्रार्थी का यह कथन असत्य व गलत पाया जाता है कि अप्रार्थी द्वारा उसको दिसम्बर 88 से मौखिक आदेश से सेवा से पृथक कर दिया। जब प्रार्थी ने नवम्बर 88 में नियोजक के अधीन कार्य ही नहीं किया तब उसको दिसम्बर से किस प्रकार से सेवापृथक किया जा सकता है इसकी प्रार्थी पक्ष ने स्पष्ट नहीं किया है बल्कि प्रार्थी ने जनवरी व फरवरी 88 में भी नियोजक के अधीन कोई कार्य नहीं किया है। अप्रार्थी नियोजक द्वारा प्रस्तुत रिकार्ड से इस तथ्य की पुष्टि होती है कि अप्रार्थी ने जनवरी-फरवरी एवम् दिसम्बर 88 में अप्रार्थी नियोजक के अधीन कोई कार्य नहीं किया बल्कि केवल मात्र माह मार्च 88 से अक्टूबर 88 तक कार्य किया है, इस सम्बन्ध में अप्रार्थी द्वारा प्रस्तुत रिकार्ड का प्रार्थी पक्ष ने खण्डन नहीं किया है। इस तथ्य से अप्रार्थी के जवाब क्लेम की मद संख्या 2 में वर्णित इस कथन की पुष्टि होती है कि प्रार्थी ने वर्ष 1988 में अप्रार्थी के अधीन मार्च से अक्टूबर तक कुल 151½ दिन कार्य दिवसों पर ही कार्य किया है, यदि इस आठ माह की अवधि से समस्त राजकीय अवकाश एवम् रविवारीय अवकाशों को प्रार्थी के कार्यकाल में जोड़ दिया जावे तो भी प्रार्थी की कार्य अवधि 200 दिन की भी नहीं होती है ऐसी सूरत में प्रार्थी का यह कथन असत्य व तथ्यों से परे पाया जाता है कि उसने नियोजक के अधीन 240 दिन से अधिक लगातार कार्य किया है बल्कि अप्रार्थी पक्ष के रिकार्ड से इस तथ्य की भी पुष्टि होती है कि प्रार्थी श्रमिक ने मात्र अक्टूबर में नियोजक के अधीन केवल 19½ दिन कार्य किया और बाद में नवम्बर 88 में प्रार्थी श्रमिक ने कार्य पर आना बन्द कर दिया इसी कारण नवम्बर 88 के मस्टररोल में प्रार्थी का नाम एवम् उपस्थिति अंकित नहीं है एवम् इस तथ्य का प्रार्थी श्रमिक ने किसी भी प्रकार से खण्डन या प्रतिवाद नहीं किया है, नवम्बर 88 में मस्टररोल में प्रार्थी का नाम एवम् उसकी उपस्थिति अंकित क्यों नहीं है इसका कोई

कारण श्रमिक पक्ष ने नहीं बताया है। श्रमिक ने यह भी नहीं बताया है कि जनवरी-फरवरी 88 में मस्टररोल में प्रार्थी का नाम एवम् उपस्थिति अंकित क्यों नहीं है। इससे भी ऐसा आभास मिलता है कि स्वयं प्रार्थी को इस तथ्य का ज्ञान था कि उसने कार्य अवधि केवल मार्च 88 ने अक्टूबर 88 तक ही अप्रार्थी के अधीन कार्य किया है।

9. उपरोक्त विवेचन के आधार पर हम इस निष्कर्ष पर पहुंचते हैं कि प्रार्थी श्रमिक ने दिसम्बर 88 में अपनी कथित सेवामुक्ति के पूर्व 12 माह की अवधि में नियोजक के अधीन 240 दिन लगातार कार्य नहीं किया है इस कारण प्रार्थी निरन्तर कार्य करने वाला एक औद्योगिक कर्मकार नहीं है, रिकार्ड से यह भी प्रमाणित होता है कि अक्टूबर 88 के पश्चात् प्रार्थी स्वयं ने ही नवम्बर 88 में स्वेच्छा से ही सेवा का त्याग किया है अतः दिसम्बर 88 में प्रार्थी को अप्रार्थी द्वारा सेवा से पृथक करने का तथ्य गलत एवम् असत्य पाया जाता है। प्रार्थी ने यह विवाद उसने अपनी कथित सेवामुक्ति के करीब 5 वर्ष पश्चात् उठाया है और इस देरी का कोई संतोषजनक स्पष्टीकरण नहीं दिया है इसलिये प्रार्थी औद्योगिक विवाद अधिनियम के किसी भी प्रावधान का लाभ प्राप्त करने का अधिकारी नहीं है एवम् विशेषकर धारा 25, औद्योगिक विवाद अधिनियम के किसी भी प्रावधान का लाभ प्राप्त करने का अधिकारी नहीं है।

उपरोक्त विवेचन के आधार पर हम इस निष्कर्ष पर पहुंचते हैं कि अप्रार्थी द्वारा दिसम्बर 88 में प्रार्थी को सेवा से पृथक नहीं किया गया था बल्कि अक्टूबर 88 के पश्चात् प्रार्थी स्वयं ने ही स्वेच्छा से कार्य पर आना बन्द करके सेवा का परित्याग किया है अतः प्रार्थी कोई राहत एवम् राशि या लाभ प्राप्त करने का अधिकारी नहीं है।

10. अतः केन्द्रीय सरकार द्वारा प्रेषित इस प्रसंग को उत्तरित करते हुए यह पंचाट इस प्रकार पारित किया जाता है कि प्रार्थी श्रमिक तरसेमसिंह पुत्र अमरीकसिंह चौकीदार को अप्रार्थी निदेशक पुश पालन केन्द्र सूरतगढ बीकानेर द्वारा दिसम्बर 88 में सेवा से पृथक नहीं किया गया है बल्कि अक्टूबर 88 के पश्चात् स्वयं प्रार्थी ने ही स्वेच्छा से कार्य पर आना बन्द करके सेवा का परित्याग किया है अतः प्रार्थी कोई राहत एवम् राशि अथवा लाभ प्राप्त करने का अधिकारी नहीं है।

उक्त अधिनिर्णय अधिनियम की धारा 17(1) के अन्तर्गत प्रकाशनार्थ केन्द्रीय सरकार को भेजा जावे।

11. आज्ञा आज दिनांक 20-8-2003 को विवृत न्यायालय में सुनाई गई।

के. एल. माधुर, न्यायाधीश

नई दिल्ली, 7 अक्टूबर, 2003

का. आ. 3154.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय

अरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-10-2003 को प्राप्त हुआ था।

[सं. एल-40012/62/2000-आई. आर. (डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 7th October, 2003

S. O. 3154.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Labour Court Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management Deptt. of Post and their workman, which was received by the Central Government on 7-10-2003.

[No. L-40012/62/2000-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT,
ERNAKULAM

(IN THE LABOUR COURT, ERNAKULAM)

(Thursday the 31st day of July, 2003)

PRESENT: Smt. N. Thulasi Bai, B.A., LL. B.,
Presiding Officer

Industrial Dispute No. 12 of 2000 (Central)

BETWEEN:

The Sub-Divisional Inspector of Post Offices, Mvattupuzha
Sub-Division, Mvattupuzha P. O.

AND

The workman of the above concern Shri Rogi Thomas,
Ayyamkolil, House, Mullapuzhachal P.O., Vazhakulam,
Muvattupuzha.

Representations:

Shri. V. J. Joseph, : For Management
Advocate,
I. S. Press Road,
Ernakulam.

Sri. P. C. Sebastain, : For Workman
Advocate,
Layam Square,
Kochi-11

AWRAD

This reference was made by the Central Government as per Order No. L-40012/62/2000/IR(DU) dated 31-5-2000. The dispute is between the Sub-Divisional Inspector of Post Offices and its workman Sri. Rogi Thomas. The dispute

referred is:

"Whether the action of the management of Sub-Divisional Inspector of Post Offices, Muvattupuzha in terminating the services of Sri. Rogi Thomas, Extra departmental delivery agent, Muvattupuzhachal Branch Post Offices, is legal and justified? If not, to what relief the workman is entitled?"

2. On receipt of notices issued from this court the workman and management appeared through counsel.

3. Workman filed a claim statement raising the following claims:—The workman was working as Extra Departmental Delivery Agent at Muvattupuzhachal Post Office under the Sub-Divisional Inspector of Post Offices, Muvattupuzha w.e.f. 1-1-1996. According to him He was continuously working in that post till 20-9-1999 by receiving monthly allowances. He was terminated on 20-9-99 without notice, notice pay or compensation. So the case of the workman is that his termination is in violation of Section 25 F and 25 G of the Industrial Disputes Act since he is a workman who worked continuously for more than 240 days under the postal department which is an industry coming within the purview of the Industrial Disputes Act. So he prays for his reinstatement with backwages and continuity in service.

4. In the written statement filed by the management it is contended as follows:—As per Central Administrative Tribunal Act the Central Administrative Tribunal alone has the authority to consider the cases in relation to recruitment and service matters in respect of holders of civil post thereby the Labour Court has no jurisdiction to entertain the case. Service conditions of Extra Department Agents in postal department are Governed by P & T E.D Agents (conduct and services) Rules 1964. Recruitment to the post is done as per rules framed by the Director General of posts, New Delhi. Sri. Rogi Thomas the employee involved in the present case was engaged as EDDA on provisional basis w.e.f. 6-7-99 on *ad hoc* arrangement as per letter dated 28-7-99. The post of EDMC, Vadakode was abolished w.e.f. 20-9-99 thereby the E.D. Agent who was having more than 3 years of continuous regular service had to be accommodated in the post held by Sri. Rogi Thomas. So Shri Rogi Thomas who was having only 76 days of provisional service was relieved on 20-9-99. Prior to the above provisional engagement he was holding the post of EDDA Mullapuzhachal as substitute for Shri. Shiji Mon during his leave period from 9-2-96 to 5-7-89 during intermittent period ranging from 2 days to 91 days the total of which comes to 513 days. The engagement as substitute for a regular EDDA was not made by the department. As per the provisional of the P & T E.D Agents (conduct and service) Rules the E.D. Agent has to arrange his substitute during leave period on his own

responsibility. So the above engagement during intermittent leave period of Sri. Shiji Mon cannot be treated as continuous service and the disengagement cannot be treated as retrenchment. The postal department is not an industry and the employee is not a workman coming under the provisions of the Industrial Disputes Act. The Honourable Supreme Court in Civil appeal No. 3385-86 of 1996 between Sub-divisional Inspector of Post Offices Vaikon and other Vs. Theyyamma Joseph has ruled that postal department is not an industry. On the above contentions the management prays for passing an award in its favour.

5. Workman filed a rejoinder reiterating the averments in the claim petition and traversing the contention raised in the written statement. It is explained that the jurisdiction of the Labour Court, Industrial and other authorities to entertain the matters coming under the I.D. Act has been saved as per Section 28 of the Administrative Tribunals Act, 1985. It is further clarified that the Apex Court settled the position of law that the postal department is an industry and ED Agents therein are workman amenable to the jurisdiction of the Labour Court. So the workman reiterates his claim for passing an award in his favour.

6. Thereafter the management filed an additional reply statement stating that similar issues pending before the Honourable High Court of Kerala in O.P. No. 32396/99 and 16775/98 thereby the decision being taken by this court will be prejudicial to the interest of the management.

7. Thus the points arise for determination are :

1. Whether the reference is maintainable?
2. Whether the action of the management of Sub Divisional Inspector of post offices, Movattupuzha in terminating the services of Sri Rogi Thomas EDDA, Muvattupuzhachal Branch post office is legal and justifiable?
3. The relief if any which can be granted to the workman?

8. For the purpose of this case evidence adduced from both sides which consists of the testimony of the workman as WW1 and Exts. M1 series, M2 and M3. No oral evidence was adduced by the management.

9. Point No. 1 : The issue under reference is the legality of the termination of the service of Sri. Rogi Thomas, EDDA, Moovattupuzhchal branch post office by the Sub-Divisional Inspector of post offices, Moovattupuzha. In the claim statement and rejoinder filed by the employee he would claim that the postal department is an industry and he is workman coming under the purview of the Industrial Disputes Act thereby the reference made to this

court is sustainable. In the written statement filed by the management it is contended that the postal department is not an industry within the meaning of the Industrial Disputes Act and the employee is not entitled to the benefit of the Act. The contention of the management that the postal department is not an industry coming under the purview of the Industrial Disputes Act is based on the decision reported in 1996(8) S.C.C. 489 (Sub Divisional Inspector of the post office Vs. Theyyamma Joseph). It is true that in the above case the two Judges Bench of the Honourable Supreme Court has held that the postal department is not an industry within the meaning of Section 2 (J) of the Industrial Disputes Act. But the above decision has been over ruled by a Three Judges Bench of the Honourable Supreme Court in General Manager, Telecom Vs. A. Sreenivasa Rao 1997(8) S.C.C. 767 in which (1978) 2 S.C.C. 213 (Bangalore Water Supply and Sewage Board Vs. A. Rajappa and others) rendered by a seven Judges Bench of the Honourable Supreme Court is followed :—

Thus by the above decision it is settled that the postal department is an industry coming under the purview of Industrial Disputes Act and the decision relied on by the management to support its contention is no longer good law.

10. Another contention of the management is that the extra departmental delivery agents are governed by the Extra Departmental Agents (Conduct and Service) Rules, 1964 thereby they will not come under the purview of the Industrial Disputes Act. But from the observations made by the Honourable Supreme Court in Bangalore Water Supply case it is clear that merely because certain categories of employees are governed by statutory Rules made under article 309 of the constitution or otherwise, they will not automatically be taken out of the purview of the Industrial Disputes Act. But as Section 2(S) of the Industrial Disputes Act stands at present the categories of employees referred there alone are excluded from the purview of the Act. The management in the present case has no contention that the employee involved in the dispute is covered by any of the exceptions included in clause 1 to 4 of Section 2(s) of the Industrial Disputes Act. So it can be concluded that the employee involved is a workman coming under the purview of Section 2(S) of the Industrial Disputes Act.

11. Another contention of the management is that this court has no jurisdiction to entertain the issue under reference in view of the implementation of Central Administrative Tribunal as per Central Administrative Tribunal Act. But it is settled by the decision report in (1996) 1 S.C.C. 69 (Krishnaprasad Gupta Vs. Controller of Printing and Stationery) that the jurisdiction of the Industrial Tribunal, Labour Court and other authorities under the I.D. Act or authority created in any other

corresponding law has been saved under Section 28 of the Administrative Tribunals Act, 1985. Thus it is clear that none of the contentions raised by the management affecting the maintainability are sustainable thereby it can be found that the reference is maintainable. Point answered accordingly.

12. Point No. 2 and 3 :—Then the question to be looked into is that whether the action of the Sub-Divisional Inspector of post offices, Moovattupuzha in terminating the service of Sri. Rogi Thomas, EDDA, Moovattupuzha branch post office is legal and justifiable. The claim of the workman is that he was continuously working as extra departmental delivery agent at Muttapuzhachal post office under the Sub Divisional Inspector of post offices Moovattupuzha w.e.f. 1-1-1996 to 20-9-1999 on which date he was terminated without any notice, Notice pay or compensation. His case is that he had continuously worked for more than 240 days in the post of EDDA thereby his termination on 20-9-1999 amounts to retrenchment as provided in the Industrial Disputes Act and since the formalities envisaged in section 25F of the Industrial Disputes Act are not complied with it is illegal and unjustifiable. But according to the management he was not continuously working as EDDA, on Moovattupuzhachal from 1-1-1996 to 20-9-1999 as claimed in the claim statement but he was working as EDDA Moovattupuzhachal on provisional basis for 39 days from 1-1-96 to 8-2-96 and thereafter he was working as substitute for Sri. K. Shiji Mon, who was the regular EDDA of Moovattupuzhachal, while he was availing leave without allowance during intermittent periods ranging from 2 days to 91 days during 10-3-96 to 5-7-99, the total of which will come to 513 days. As per the provisions contained in the P&TED Agents (Conduct and Service) Rules 1964 the ED Agent while taking leave has to arrange his substitute during the leave period on his own responsibility and the allowance due to the regular EDDA will be paid to the substitute on the basis of the undertaking given by the regular employee and or the basis of the agreement between the regular employee and the substitute and when the period of leave applied for by the regular ED Agents is over substitute arrangement ends thereby it cannot be termed as retrenchment. Ext. M1 series are copy of 9 leave applications jointly signed by Sri. Shiji Mon and the workman which were marked through the workman when examined as WW1. During cross examination the workman had admitted that he was appointed as a substitute of Shiji Mon as EDDA. Ext. M2 is the copy of letter given by the workman to the Sub Divisional Inspector, Moovattupuzha on 20-2-1999 in which he admits that he was working as a substitute since 1-1-1996. Ext. M3 is the format of the leave application of EDDA which has to be jointly signed by the E.D. Agent and his substitute. Thus from the evidence

of workman as WW1 and from the admitted documents Exts. M1 series, M2 and M3 It can be found that the workman was working as a substitute for Sri. Shiji Mon EDDA, Muttapuzhachal post office during 1-1-1996 to 1-7-1999 and from 6-7-1999 to 20-9-1999 as provisional basis. The provisional engagement of the workman from 6-7-99 to 20-9-1999 will not cover the required continuous service of 240 days as envisaged in section 25 G of the Industrial Disputes Act so as to attract the provisions of Section 25F of the Industrial Disputes Act. So the copy of judgement dated 4-5-2001 in I.D. No. 6/2000(C) of the Industrial Tribunal, Palakkad has no bearing in the present case. Thus the termination of the workman on 20-9-1999 cannot be treated as retrenchment so as to get the benefit of section 25F of the Industrial Disputes Act. So it cannot be found that the termination of Sri. Rogi Thomas, the workman involved in the present case w.e.f. 20-9-1999 was illegal and justifiable. So the workman Sri Rogi Thomas is not entitled to get any relief as per the reference. Points are answered accordingly.

In the result, an award is passed finding that the action of Sub Divisional Inspector of Post Offices, Moovattupuzhal in terminating the services of Sri. Rogi Thomas, Extra Department Delivery Agent, Moovattuzhachal Branch Post Office is legal and justifiable and the workman is not entitled to get any relief as per the reference.

This award will take effect one month after its publication in the official Gazette.

Dictated to the Confidential Assistant, transcribed and typed out by her, corrected by me and passed this the 31st day of July, 2003.

Ernakulam. N. THULASI BAI, Presiding Officer

APPENDIX

Witness examined on the side of the Management : Nil

Witness examined on the side of the workman :

WW1—Sri. Rogi Thomas.

Exhibits marked on the side of the Management :—

Ext. M1— (series)—Photo copy of application from (9 in Nos.) E.D. staff in postal department.

Ext. M2—Photo copy of letter dated 20-2-99 sent by Rogi Thomas to Sub Divisional Inspector of Moovattupuzha.

Ext. M3—Application from of Extra Departmental Agent.

नई दिल्ली, 8 अक्टूबर, 2003

का. आ. 3155.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.टी.एन.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-2/92 ऑफ 2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-2003 को प्राप्त हुआ था।

[सं. एल-40012/203/2000-आई आर(डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 8th October, 2003

S. O. 3155.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. CGIT-2/92 of 2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M.T.N.L. and their workman, which was received by the Central Government on 8-10-2003.

[No. L-40012/203/2000-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI.

PRESENT:

S. N. SAUNDANKAR

Presiding Officer

Reference No. CGIT-2/92 of 2000.

EMPLOYERS IN RELATION TO THE
MANAGEMENT OF MAHANAGAR TELEPHONE
NIGAM LIMITED

Divisional Engineer, External (City-1),
Mahanagar Telephone Nigam Limited,

Telephone House,

V.S. Marg,

Prabhadevi,

Mumbai - 400 028.

V/s.

THEIR WORKMEN

Smt. Mithibai Parmar,

130, Thavar Mansion No. 2,

3rd Floor, Room No. 51,

Shivdas Chapei Marg,

Noorbhagh,

Mumbai - 400 009.

APPEARANCES:

FOR THE EMPLOYER

: Mrs. N.V. Masurkar,
Advocate holding for
Mr. Vinay S. Masurkar.

FOR THE WORKMEN

: Mr. N.Y. LOKHANDE,
Advocate.

Mumbai, Dated 21st August, 2003

AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/203/2000-IR(DU) dated 9-8-2000/26-9-2000 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, have referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of MTNL ACT-II Division, Mumbai by orally terminating the services of Smt. Mithibai S. Parmar w.e.f. 1-9-1999 is justified? If not, to what relief the workman Smt. Mithibai S. Parmar is entitled?"

2. Workman Mithibai Parmar was working as Sweeper in the office of MTNL. Vide claim Statement (Exhibit-9) workman pleaded that she was engaged initially in the office of Assistant Engineer A/C, Cooperage Telephone Exchange, Mumbai from 8-8-1986 to 31-8-1986 and that since 1-9-1986 till 31-8-1999 she worked in the office of ACT-II. According to workman she was cleaning the entire area of the office situated in St. George Hospital Compound occupied by ACT-II Depot Sub-division and its office of the staff, Areas Store Depot, approximately area 6000 sq. ft. and toilet attached to those offices and that she was paid wages for the continuous work done from 8-8-1986 to 1-9-1999. It is averred that though workman continuously worked for about 13 years, she was removed without any notice, notice pay and retrenchment compensation, therefore, her termination being unjustified, management MTNL, be directed to reinstate her in service with full back wages.

3. Management resisted the claim of workman by filing Written Statement (Exhibit-11) contending that workman never worked in the regular post as regular worker. She was engaged only for five days in a week and that too for only two hours, as no regular work was available in the office of ACT-II Sub-division, St. George Hospital Compound. It is contended that workman was discharging work of sweeping in the early morning hours intermittently and that she being a casual worker, she was paid wages on ACG-17 format. It is averred that presently the office of MTNL is maintained by SD (Building) Central Exchange, CR Marg, Mumbai-1, where complete arrangement of up keeping the premises including the sweeping work is available, thereby sweeping contract was not necessitated consequently it is contended the workman was a casual Sweeper and as no work exists she was disengaged consequently workman's claim being devoid of substance, be dismissed with costs in limine.

4. By Rejoinder (Exhibit-12) workman reiterated the recitals in the Statement of Claim denying the averments in the Written Statement. It is contended that workman worked continuously from 1986 under the officers namely Mr. Jaswani, Karande, Lal, Mishra, Deshpande etc. however, she was not given justice by regularising.

5. On the basis of pleadings issues were framed at Exhibit-14 and in that context Ms. Parmar filed affidavit in lieu of Examination-in-Chief (Exhibit-20) and in support of her claim examined MTNL Officers Mr. Gaikwad, Mr. Satyanarayan and Mr. Verma vide (Exhibit-27/28/31) and closed oral evidence vide purshis (Exhibit-32). In rebuttal, Divisional Engineer, External (City-1) Mr. Mohd. Ismail and Sub-Divisional Engineer Mr. Deshpande filed affidavits vide (Exhibit-35/37) and management closed oral evidence vide purshis (Exhibit-41).

6. Workman filed written submissions (Exhibit-42) and the management (Exhibit-43). On hearing the counsels for both sides and perusing the record and the written submissions, I record my findings on the issues for the reasons mentioned below :

<u>Issues</u>	<u>Findings</u>
1. Whether the action of the management of MTNL, ACT-II Division, Mumbai by orally terminating the services of Smt. Mithibai S. Parmar w.e.f. 1-9-1999 is justified ?	Not justified
2. What relief Smt. Parmar is entitled to ?	As per order below.

REASONS

7. According to workman Mithibai Parmar she worked as Sweeper initially in the office of MTNL at AC, Cooperage Telephone Exchange from 8-8-1986 till 31-8-1996 and thereafter continuously worked from 1-9-1986 till her oral termination on 1-9-1999 at St. George Depot ACT-II. She stated that she was cleaning the entire office premises and the toilets attached to the offices however, instead regularising her, she was retrenched illegally. Management denied that Mithibai worked continuously as Sweeper. Divisional Engineer Mr. Ismail and Sub-Divisional Engineer Mr. Deshpande both pointed out that Mithibai was engaged as casual labour for sweeping work and that her work was for less than two hours daily on working days, for which she was fully compensated, therefore, question of her reinstatement does not arise and as she was not engaged as Government employee had no right to regularisation. According to Mr. Mohd. Ismail, Mithibai did not work continuously from 8-8-1986 to 1-9-1999. Man may speak lie but not the documents. Sub-Divisional Engineer Mr. Deshpande clearly admits in his cross-examination para 8

letter dated 6-1-1998 (Exhibit-39) was issued by his Predecessor. This clearly mentions Mithibai worked as a casual labour in the office of Assistant Engineer-A/C, Cooperage w.e.f. 8-8-1986 on the M.R. Folio No. 1 Book No. 2376 of C.L. Muster roll and further classified that she worked continuously for about 11 years with ACT-II.

8. Apart from the documentary evidence, Senior Section Officer Mr. Gaikwad disclosed that when he was working as Welfare Inspector in the year 1994, on the direction of General Manager he had approached the concerned unit and on inquiry he was told that Mithibai Parmar was cleaning office, toilets during 9.00 a.m. to 12.00 hours. Mr. Satyanarayan, Junior Telecom Officer asserted from the witness box that while working as Telephone Inspector as ACT-II Sub-Division during the period 1981 to 1991 along with Assistant Engineer, Junior Engineers and Phone Inspectors including 35/40 staff, Mrs. Parmar used to clean the store premises as well as the outside portion and added that she was also cleaning the office including WC and that she used to leave the office after cleaning work at about 12.30 p.m. S.J.T.O., MTNL Mr. Verma deposed that since 1982—1996 he was in St. George Depot as Phone Inspector where workman with the help of labourers was cleaning toilets, lounge, office of ACT-II Depot and added that sometimes she was also cleaning tables in the office. He pointed out that all the staffs of South Zone were using the toilets including the people staying near slum areas and she used to clean the same physically as that time toilets were not connected to BMC drainage. He further stated that she was doing such work of sweeping/cleaning from 8/9 a.m. to 2.00 p.m. This evidence of the officers of the MTNL itself point out that the workman was sweeping/cleaning the offices and the toilets for about 5-6 hours thereby falsifies the statement of Mr. Ismail and Mr. Deshpande that she was working less than two hours a day thereby no work was available to her.

9. The Learned Counsel Mrs. Masarkar for MTNL inviting attention to the cross-examination of the workman and her witnesses submit that office timing was 10 a.m. to 5.00 p.m. she was cleaning area of $40 \times 40/15 \times 18/12 \times 18$ s.ft. and some stores for which hardly an hour is required and that work being casual, a full time Sweeper cannot be engaged and that since the office has been shifted to K.K. Chamber no work exists and therefore workman cannot be regularised. She urged that workman being daily wage paid on ACG-17 format, not appointed to the post in accordance with the rules, but engaged on the basis of need of work, their disengagement cannot be construed to be retrenchment under the Industrial Disputes Act. She submits that daily wage employees had no right to the post, therefore, Section 25F of the Industrial Disputes Act, does not attract. She has relied on Himanshu Kumar Vidyarthi and Ors. V/s. State of Bihar and Ors. 1997 SCC (L&S) 1079.

10. From the documents (Exhibit-39) referred to above it is apparent that workman Parmar worked continuously for about 11 years in the office of MTNL as Sweeper, itself indicative that the work was not temporary or intermittent or for two hours. In this context the submission of Mrs. Masurkar that no work exists in a public industry like MTNL and therefore, workman cannot be regularised, is hard to accept. The fact that workman continuously worked for about 11 years and that she was orally asked not to come for work, is clear-cut departure from the legal provisions of the Industrial Disputes Act and consequently management's action in this context is wholly unjustified.

11. The Learned Counsel Mr. Lokhande for the workman inviting attention to letters (Exhibit-38, 39, 40) urged with force that in spite of repeated directions from the higher officers of the company considering the serious nature of the matter, the case of the workman was not even reported is the instance of neglecting the poor labourers like Sweeper. From the letter of D.G.M. (Personnel) dated 15-10-1999 Annexure-J filed with Rejoinder (Exhibit-12) shows in the case of the workman report was called, but it is seen, workman's voice was not heard. As stated above, since workman worked continuously for more than 11 years and that she was removed arbitrarily without giving notice, and retrenchment compensation, thereby not following the procedures under the Act, is not only unjustified but illegal, consequently, it is proper to direct the management to absorb the workman in the regular cadre of Sweeper within three months from today and to pay her regular wages from the date of absorption. Issues are answered accordingly and hence the order :

ORDER

The action of the management of MTNL ACT-II Division, Mumbai by orally terminating the services of Smt. Mithibai S. Parmar w.e.f. 1-9-1999 is wholly unjustified.

Management MTNL is directed to absorb the workman Smt. Mithibai S. Parmar in the cadre of Sweeper within three months from today and to pay her regular wages from the date of absorption.

S. N. SAUNDANKAR, Presiding Officer
नई दिल्ली, 8 अक्टूबर, 2003

का. आ. 3156.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.ई.एस. गैरीसन इंजीनियर (एयर फोर्स) के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 170/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-2003 को प्राप्त हुआ था।

[सं. एल-14011/9/96-आई. आर.(डीयू)]

बी. एम. डेविड, अपर सचिव

New Delhi, the 8th October, 2003

S. O. 3156.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947)] the Central Government hereby publishes the award (Ref. No. 170/97) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M.E.S. Garrison Engineer (Air Force) and their workman, which was received by the Central Government on 8-10-2003.

[No. L-14011/9/96-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Presiding Officer : Shri S. M. Goel

Case No. ID 170/97

M.E.S. Workers Union Committee,
Ambala C/o Shri D.R. Sharma, H.N. 551, Sector 41-A,
Chandigarh

... Applicant

Versus

The Garrison Engineer (Air Force)
M.E.S. Halwara
District Ludhiana (Pb.)

... Respondent

APPEARANCES :

For the workman	: Shri D.R. Sharma
For the management	: Sh. Pramod Kumar

AWARD

(Passed on 25th of September, 2003)

Central Govt. vide Notification No. L-14011/9/96-IR(DU) dated 9th of October 1997 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of the M.E.S. Garrison Engineer (Air Force) Halwara not granting pay scale of Rs. 950-1500 to 12 workers is justified or not ? If so, what relief the workers are entitled to ?"

2. Today the case was fixed for evidence of the workman. Shri D. R. Sharma counsel for the workman appeared and made the statement that he withdraw this case with permission of this Court to file afresh his case in a competent court for the same cause of action. And the case may be dismissed as withdrawn. In view of the statement of the counsel for the workmen, the present reference is dismissed as withdrawn with a right to file afresh. Central Govt. be informed.

Chandigarh :

Dated : 25-9-2003.

S. M. GOEL, Presiding Officer

नई दिल्ली, 8 अक्टूबर, 2003

का. आ. 3157.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑर्डनैन्स फैक्ट्री प्रोजेक्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल सी आई डी-29/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-2003 को प्राप्त हुआ था।

[सं. एल-14025/3/2003-आई. आर.(डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 8th October, 2003

S. O. 3157.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. LCID-29/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Ordnance Factory Project and their workman, which was received by the Central Government on 8-10-2003.

[No. L-14025/3/2003-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT : Shri E. Ismail, B.Sc. LL.B.,
Presiding Officer

Dated the 31st day of May, 2003

Industrial Dispute L.C.L.D. No. 29/2001

BETWEEN:

Sri B. Venkata Swamy,
S/o Balaiah,
Fitter General, HS-II, T. No. 8286,
Qtr. No. 22273, Ordnance Factory
Project, Government of India,
Yeddumailaram, Medak District.

AND

1. The General Manager,
Ordnance Factory Project,
Govt. of India,
Ministry of Defence,
Yeddumailaram,
Medak District.

2. The Additional Director General,
Ordnance Factory & Appellate Authority,
Government of India,
Ministry of Defence,
Ordnance Factory Board,
Armed Vehicles Head Quarters,
Avadiu,
Chennai-600 054. ... Respondents

APPEARANCES:

For the Petitioner : M/s. K. Lakshmi Narasimha &
P. Lakshmanarao, Advocates

For the Respondent : M/s. A. Raghavaiah &
K. Bharathi Devi, Advocate

AWARD

This is a case taken under Sec. 2A(2) of the I.D Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief averments as stated in the claim petition are : that the Petitioner is working as Fitter General HS-II in the R1 factory and was terminated from service by R1 vide order No. 15/1004/VIG/98/18 dated 11-9-2000. He was drawing a wage of Rs. 8424/- per month at the time of his termination. He served a demand letter on the management on 14-10-2000 on R2 to allow the appeal and set aside the removal order. R2 rejected the same vide order No. 668/Appeal/AVHQ/OFFPM (BS) dated 17-5-2001 which was communicated through R1 vide order No. 15/1004/VIG/98/18 dated 25-5-2001. Hence, the Petitioner approached this Court.

3. The Respondents organization is a Government of India undertaking coming under the Ministry of Defence. It is a factory as per Factories Act manufacturing explosives. While working as fitter General/HS-II the Petitioner was served with a charge memo dated 15-12-1998 framing three charges. Three documents were shown which were the basis of charge memo and one witness Mr. K. Shivaraj was shown as sole witness. The said documents mentioned in chargesheet were not supplied to the Petitioner. An enquiry was conducted. After the enquiry, R1 called for Petitioner's reply against the enquiry. The Petitioner gave his objections vide letter dated 17-8-2000. Without considering his application his services were terminated vide proceedings dated 11-9-2000. The 2nd Respondent rejected his appeal by order dated 17-5-2001 which was communicated by the 1st Respondent vide order dated 25-5-2001. The Petitioner was not furnished with the documents which are listed in the charge memo due to which he was unable to defend himself in the enquiry and therefore the enquiry as well as termination order are illegal.

4. According to the management witness Mr. K. Shivaraj the Petitioner has demanded some money for procuring appointment to Mr. Ramesh Kumar. No witness was examined in this regard. The five witnesses said to have been witnessed when the alleged amount was paid to the Petitioner were produced by the Petitioner during the enquiry. But these five persons stated that it is false. The 1st Respondent did not consider his objections against the enquiry and issued termination order. Hence, it is prayed by the Petitioner that the Respondents may be directed to reinstate the Petitioner into service with full back wages, seniority and other consequential benefits.

5. An IA was filed by the Respondent management regarding jurisdiction of this Court to entertain this dispute under Sec. 2A(2) of the I.D. Act which was dismissed by this Court vide order dated 12-12-2001. A counter was filed by both Respondents stating that this Hon'ble Court has no jurisdiction to decide the present dispute on the following ground. The Respondent factory No. 1 is a Defence Production Unit engaged in the manufacture of Defence equipments for the Armed Forces which is in Medak District which is not an industry under Sec. 2(j) of the I.D. Act. The Petitioner worked as Fitter General/HS-II in the R1 factory. The memorandum of charges contained three charges. The Petitioner is misleading this Court by making a statement that the list of documents was not supplied. The disciplinary action was taken on receipt of a signed complaint by Sri K. Shivaraj. In this complaint it was brought out that the Petitioner had demanded an amount of Rs. 30,000 and also threatened Mr. Shivaraj about his life. For Petitioner's objections on enquiry, the Respondent No. 1 clearly issued a speaking order and the Respondent No. 2 elaborately brought out his findings and confirmed the penalty imposed by Respondent No. 1. Petitioner also participated in the enquiry. Petitioner was given full opportunity as per the Rules and he was removed from service when it was proved in the enquiry. It is submitted that the documents were submitted to the Petitioner along with charge memo. Sri K. Shivaraj has categorically stated in his circular dated 13-10-1998, 16-10-1998 and 29-10-1998 that the Petitioner had pressurized him to pay Rs. 30,000/- on selection of Sri M. Ramesh Kumar in the Respondent factory. Mr. Ramesh Kumar denied that Sri K. Shivaraj has helped him to get the job before the enquiry as it would be damaging to himself. The Respondent No. 1 duly considered the objections raised by the Petitioner and imposed the penalty as there was evidence against the Petitioner. The Appellate Authority has noted that the Court of Inquiry was held strictly in conformity with the provision of Rule 14 of CCS (CCA) Rules 1965 and the Petitioner was given reasonable opportunity to defend himself against the charges which he availed. The Petitioner was found guilty of a serious misconduct involving moral turpitude. Hence, the enquiry is not vitiated as he was given full opportunity to defend

himself. Therefore, the Petition may be dismissed as the Petitioner is not entitled to any relief.

6. The petitioner examined himself as WW1, in chief examination he deposed to the facts as stated in the claim Petition and marked the following documents. Ex. W1 is the chargesheet. He is not accepting the allegations mentioned in Ex. W1. Ex. W3 is the termination order dated 11-9-2000. Ex. W4 is the appeal preferred by him to the Director General, Ordnance Factory Board. Ex. W5 is the Appellate order dated 17-5-2001 rejecting Petitioner's appeal. Ex. W6 is the salary slip of July, 2000. He prays for reinstatement with continuity of service etc.

7. In the cross examination he deposed that he do not know how many ordnance factories are there in India and also whether equipment made by ordnance factory is exclusively made for defence purpose. He came to know subsequently about the complaint given by Mr. Shivaraj. It is not true to state that he demanded and accepted an amount of Rs. 30,000/- for the purpose of procuring a job of welder to one Mr. M. Ramesh Kumar. He was given chargesheet on 15-12-98 based on complaint given by Mr. Shivaraj. He replied on 22-1-99 to the charge sheet. No documents were given to him during the enquiry which were mentioned in the chargesheet. He had filed OA No. 1310/2000 before the Hon'ble C.A.T., Hyderabad dated 17-9-2000 which was not dismissed. He is a member of TNTUC and also organizing secretary.

8. Shri M. Srinivasa Rao filed affidavit on behalf of the Respondent management. He stated in his affidavit that the facts mentioned in the counter of the Respondent may be taken as part and parcel of the affidavit. He stated that he is working as Joint General Manager, (Admn) in Ordnance Factory project, Yeddumailaram and marked the following documents. Ex. M1 is the SRO No. 800/Genl./A/I, dated the 28th July, 1989. Ex. M2 is the removal order dated 11-9-2000, Ex. M3 is the copy of O.A. No. 1310/2000 which was disposed on 31-1-2001. The Petitioner has filed appeal on 14-10-2000 which is Ex. M4 and the said appeal was disposed on 17-5-2001 which is Ex. M5.

9. Sri N.G. Babu, Foreman in Ordnance Factory, Yeddumailaram deposed as MWI in his cross examination he deposed that the Petitioner was promoted as Foreman in 1990 at Heavy Alloy Penetrator Project at Trichy. He was no way concerned with the entire disciplinary proceedings of the Petitioner. The Petitioner is not an Army Personnel and is not governed by the Army Act. He is not aware whether any documents were given along with the charge memo to the Petitioner. He do not know anything about the various Judgements referred to by him in his affidavit. He do not know which person belongs to which union. None of the exhibits M1 to M6 either signed by him or issued by him. Except one proceedings dated 17-4-2000, all the other enquiry proceedings were completed prior to his joining the factory.

10. Unfortunately, it went out to the notice of the Court and the Advocates also did not bring to the notice that the validity of the domestic enquiry has to be decided first. However, that was not done so and the Petitioner examined himself and the Respondents also examined one witness. However, to decide the case it becomes pertinent for me during the course of Judgement to decide about the validity of the domestic enquiry also instantly. Because, the written arguments on behalf of both the Petitioner and the Respondents speaks a lot about the validity of domestic enquiry.

11. It is argued by the Learned Counsel for the Petitioner that the Petitioner has worked in the Respondent organization and worked as Fitter HS. II. He was served with a charge sheet dated 15-12-98 which is Ex. W1 framing three charges. In the charge memo three documents were shown which were the basis of the said charges and one Sri K. Shivraj was shown as the sole witness. The list of documents shown in the charge sheet were never supplied to the Petitioner. The enquiry commenced on 28-2-2000 and final sitting was on 17-4-2000. The Petitioner gave his objections to the said enquiry and requested for dropping the charges. Yet, he was issued with the termination order dated 11-9-2000. Against which he filed an appeal to the R2 which was dismissed. Questioning the said order the I.D. is filed. That the preliminary ground taken by means of 1A was decided by the Hon'ble Court holding that this Hon'ble Court has got jurisdiction. The Petitioner examined as WW1 and marked Ex. W1 charge memo dated 15-12-98, enquiry proceedings Ex. W2, termination order Ex. W3 and appeal Ex. W4. Appellate order Ex. W5, pay slip for July, 2000 is Ex. W6. In the written arguments the Petitioner's Counsel himself has framed four issues. The first issue is whether this Court has got jurisdiction over the matter to decide the issue. Perhaps he lost sight of that this Court by a detailed order on 12-12-2001 held that this Court has got jurisdiction to entertain the main petition. The next issue framed by the Petitioner's Counsel that whether the enquiry proceedings are validly held or not. Third issue he has framed is whether the final termination order by the Respondent and confirmed by the Appellate Authority is illegal. Fourth one, if not whether the punishment imposed is excessive and wants interference under Sec. 11A. As I have already stated above that this fact ought to have been brought to my notice that the first thing to be decided is the validity of domestic enquiry which was not done so as and it now becomes pertinent for me to decide the same. So first I will decide as the Petitioner's Counsel himself also insisted so that has to be decided. He has given lengthy arguments whether this Court has jurisdiction. As I stated that already I have decided by a detailed order on 12-12-2001 that this Court has got jurisdiction. Hence, that need not be gone into as already this issued is decided in favour of the Petitioner. Quoting from my Judgement is the said IA

dated 12-12-2001 which is lost sight off by the Petitioner's Counsel, It was held, "He is after all Fitter no doubt in an Ordnance Factory and he squarely comes under the definition of a worker under the I.D. Act." So this Court apparently has got jurisdiction to trail the case.

12. The second issue raised by him is whether the domestic enquiry proceedings were validly conducted and whether the enquiry is validly conducted or not. It is submitted by the Petitioner's Counsel that the service of the Petitioner are governed by Statutory Rules called "Central Civil Services (Classification, Control and Appeal) Rules" for short Rules. Rules 14 deals with procedure for imposing penalties. As per this Rule chargesheet should be given along with documents and the explanation should be asked for from the delinquent employee. After receipt of the explanation then only enquiry should commence. In this case even before the explanation was given the enquiry was conducted, which clearly shows that it is a pre-determined mind. The act is contrary to rules and the enquiry is totally vitiated. Then even the procedure for imposing penalty is not followed properly. The sole witness in the enquiry proceedings is one Mr. K. Shivraj which is not corroborated by any other witness. On the other hand four witnesses deposed before the Enquiry Officer stating that the said statement is false. No weightage is given to this witness. Further after the enquiry is completed the Petitioner has given his objections which were not considered. Some way the Appellate Authority also has not considered the same. Hence, the same may be quashed.

13. It is further argued by the Learned Counsel for the Respondents, again here also perhaps without considering that this aspect of jurisdiction has been considered and decided on 12-12-2001 only against which apparently the matter was not carried to the Hon'ble High Court. Hence, the said order becomes final that this Court has got jurisdiction. So those arguments need not be repeated here. Much of the written arguments deal only with the aspect which has already been decided by this Court. So far as enquiry is concerned the issue number two is concerned about the validity of domestic enquiry. The Petitioner was given full opportunity to adduce evidence and rebut the charge. Further contended that it is open to this Tribunal to re-appreciate evidence and come to it's own conclusion. Unless the findings are arbitrary, perverse or malafide. Therefore, let us now see whether the enquiry is validly conducted or not.

14. It may be seen that as per the judgment of the Hon'ble Supreme Court in A.I.R. 1963 page 1914 The Hon'ble Supreme Court held, "An enquiry cannot be said to have been properly held unless":

- (1) The employee proceeded against has been informed clearly of the charges levelled against him.

- (2) The witnesses are examined—ordinarily in the presence of the employee—in respect of the charges.
- (3) The employee is given a fair opportunity to cross examine the witnesses.
- (4) He is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter.

AND

- (5) The Enquiry Officer records his findings with reasons for the same in his report.

Let us see whether the above five conditions are fulfilled in this case.

- (a) **Point No. 1 :** A chargesheet no doubt was given. Which has been given along with a charge memo that an enquiry will be held directly enclosing a charge. The charge is very very clear which says that the Petitioner B. Venkataswamy demanded Rs. 30,000/- from Sri K. Shivraj for selection and appointment of a candidate by name Sri M. Ramesh Kumar and received Rs. 10,000/- which was on the basis of the statement of Sri K. Shivraj. So I hold that the charge is very clear and as no explanation has been called for before starting the enquiry which is not in any way has prejudiced the Petitioner. Hence, this point is answered in favour of the management.
- (b) **Points Nos. 2, 3 and 4 :** In the examination only Sri Shivraj was examined and three documents were marked, statements from Sri Shivraj's Pamphlet circulated by Sri Shivraj. The Petitioner examined six witnesses who were examined in the presence of the Petitioner. He was given a chance to cross-examine and he himself examined six witnesses including himself. So held that this points 2, 3 and 4 also in favour of the employer.
- (c) **Point No. 5 :** I find that the Enquiry Officer has assessed the evidence and given findings with reasons. Hence, this point also is held in favour of the employer.

Accordingly I hold that the enquiry is validly conducted.

15. Next point is whether this Court can interfere under Section 11A of the Act after assessing the evidence and the findings and as stated by the Respondent Counsel whether the findings are arbitrary, perverse or mala fide. If so, they can be interfered with or if otherwise whether such a conclusion would have been possible. It may be seen that only witness that is examined is Sir K. Shivraj.

There is no other witness to corroborate Sri Shivraj. It is also admitted fact the Enquiry Officer has submitted that the defence witness on the contrary have provided substantial evidence to the articles of charge. Let us go through the evidence of the defence witnesses. Sri Shivraj is the only witness as stated by him he has issued a pamphlet. He has written the said pamphlet with his own hand-writing. He deposed that after the name of Sri Ramesh Kumar was displayed on the notice board the Petitioner started demanding money. He said he borrowed the money for paying Rs. 10,000/- The paid on 22-8-98 at 1.30 P.M. at Ganesh Mandapam near Marketing Complex, Shri Mogulaiah, Welder was also present at that time and said Mogulaiah was not examined. DW2 Sri Ch. Venkat Rao from whom Shivraj is said to have taken a loan stating that he has got family problems. So it is clear from the evidence of DW2 that on 14-8-98 Rs. 10,000/- was taken by Shivraj. DW1 Sri M. Srinivas was also named in the pamphlet. In the cross examination he stated that in his reply dated 14-10-98 to General Manager he did not bring about the probable cause of union rivalry for the allegation. Sri P. Janardhan Reddy was also examined as DW3 whose name is also mentioned in the pamphlet. He also stated in the cross examination that he did not mention in his reply to the General Manager that union rivalry will be the cause for the complaint by Shivraj. But he brought out this point in the Board of enquiry conducted by Sri B. Uday Kumar. Sri M. Mogulaiah is examined as DW4. Where he admits that he was present when Samaiah and Shivraj were talking at Ganesh Mandapam. DW5 is Sri Ramesh Kumar the candidate in question was appointed about whom all this problem has arisen. Naturally, he would not have said anything which would Jeopardise his career. DW6 is Sri Yadav, he says Sri Shivraj took the loan from Sri Ch. Venkat Rao for medical problems.

16. It may be seen that the only evidence that has come before the Enquiry Officer is of the complainant Sri Shivraj who issued pamphlet which is Ex. M3. But one thing is clear that his Rs. 10,000/- was borrowed. Naturally almost all the defence witnesses were somehow or other either involved in the pamphlet by Sri Shivraj or some way or other connected with the problem. Including the person who lend the amount of Rs. 10,000/- who says that Sri Shivraj took the amount for medical problems. Now, the question is either the conclusions are so bad as to want interference. The Learned Counsel for the Respondent has give a Judgement. I would feel that no doubt, the conclusions are not perverse. Even taking for granted that such conclusions are possible and the enquiry is validly conducted if so yet, this Court has got powers under Sec. 11A to reduce the quantum of punishment.

17. It may be noted that as stated supra, the conclusions reached by the Enquiry Officer cannot be called as perverted, yet, it is sufficient to invoke the powers under Sec. 11A, if people are sent out on publication of

pamphlet on the sole evidence of the interested witness who may have some score to settle, it would be very difficult for employees to work. No doubt, it has caused a shadow on the character of the Petitioner that there may be some truth in the allegation made against him. Yet, as even if standard of civil case is taken apparently according to the charge, is not sufficiently proved but as there is some shadow of suspicion on the Petitioner and unfortunately neither the petition gives a detail of when the Petitioner was appointed initially nor the counter. Hence, I modify the punishment of dismissal and direct that the Petitioner be reinstated as Fitter General HS-II, T. No. 8286, the order of dismissal dated 11-9-2000 is set aside and the Respondents are directed to reinstate the Petitioner on the last pay drawn (without giving any increment) on or before first September, 2003, failing which the Petitioner shall be entitled for the pay every month as per the last drawn pay. As stated supra as there is a Shadow of suspicion over him, therefore, he shall not be entitled for any back wages, increment or any other benefit from the date of dismissal till 1-9-2003 or earlier when he is reinstated. The said period from dismissal till reinstatement shall only be taken into consideration at the time of retirement for terminal benefits.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 31st day of May, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1 : Sri B. Venkata Swamy	MW1 : Sri N.G. Babu

Documents marked for the Petitioner

Ex. W1: Copy of memo No. 15/1004/VIG/98/18 dt. 15-12-98.

Ex. W2: Copy of enquiry proceedings dt. 28-2-2000.

Ex. W3: Copy of termination order No. 15/1004/VIG/98/18 dt. 11-9-2000.

Ex. W4: Copy of appeal against Ex. W3 dt. 14-10-2000.

Ex. W5: Copy of order dt. 17-5-2000.

Ex. W6: Salary slip of July, 2000.

Documents marked for the Respondent

Ex. M1: Copy of SRO No. 800/Genl. A/1, dt. 28-7-1989.

Ex. M2: Copy of removal order No. 15/1004/VIG/98/18 dt. 11-9-2000.

Ex. M3: Copy of order in OA No. 1310/2000 dt. 31-1-2001.

Ex. M4: Copy of appeal against Ex. M3.

Ex. M5: Copy of order No. 668/APPEAL/AVHQ/OFPM (BVS) dt. 17-5-2001.

नई दिल्ली, 8 अक्टूबर, 2003

का० आ० 3158.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या-71/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-2003 को प्राप्त हुआ था।

[सं. एल-40012/65/93-आई. आर.(डीयू)]

जो. एम. डेविड, अवर सचिव

New Delhi, the 8th October, 2003.

S. O. 3158.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 71/94) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Post and their workman, which was received by the Central Government on 8-10-2003.

[No. L-40012/65/93-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT CHANDIGARH

Presiding Officer : Shri S.M. Goel

Case No. ID 71/94

Dharam Pal Son of Sube Singh
Vill. Rajpur, District Faniapat

... Applicant

Versus

Superintendent of post Office,
Sonapat Division, Sonapat

... Respondent

APPEARANCES :

For the Workman : Shri S. S. Bains

For the Management : Shri Arun Walia

AWARD

(Passed on 26-9-2003)

Central Govt. vide notification No. L-40012/65/93-IR(DU) dated 9-8-1994 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Suptd. of Post Offices, Sonapat Division, Sonapat in terminating the services of Shri Dharan Pai is justified? If not, what relief he is entitled to?"

2. In the claim statement it is pleaded by the applicant that he was appointed as E.D. Branch Post Master at Rajpur branch on 24-6-1991 and one Suresh Kumari was approved to be appointed in his place on regular basis. The applicant filed a civil suit and the civil suit was dismissed in default. On 15-1-1992 when Smt. Suresh Kumari declined to be appointed Shri Ram Mehar Mall overseer took over the charge from the applicant. It is pleaded that the termination of the services of the applicant on 15-1-1992 is illegal as no reason was given for terminating his services. It is pleaded that he was the victim of party politics and the management has violated the provisions of the I.D. Act, 1947 and the workman is entitled for reinstatement with full back wages and other attendant benefits.

3. The management in written statement has taken preliminary objection that the claim of the workman is not maintainable as he had earlier filed a civil suit which was dismissed in default and this is a constructive res-judicata against the applicant. On merits it is pleaded that the workman was engaged on purely temporary basis as E.D. BPM on 24-6-1991. The regular candidate Smt. Suresh Kumari had declined to join as she put some conditions and after that one Shri Ashok Kumar son of Ram Phal was appointed on regular basis after taking over the charge from the applicant on 15-1-1992. As the appointment of the applicant was purely on temporary and stop gap arrangement, and regular person Shri Ashok Kumar was appointed therefore, there was no need for the management to comply with the provisions of the I.D. Act 1947 and the management has not violated any principle of equality. It is prayed that there is no merit in the present reference and the same be rejected.

4. Replication was also filed reiterating the claim made in the claim statement.

5. In evidence the applicant filed his affidavit as Ex. W1 and documents Ex. W2 to W8. In rebuttal the management produced Shri B.S. Panchal inspector who filed his affidavit Ex. M2.

6. I have heard the learned counsel for the parties and have gone through the evidence and record of the case.

7. The learned counsel for the workman has argued that the workman was engaged by the management and he had also put in more than 240 days of service with the management in order calendar year. The management has not paid him any retrenchment compensation and no notice

was given to the workman before his termination. In his place one Ashok Kumar was appointed, therefore, he has argued that the workman is entitled to the protection of Section 25-F of the I.D. Act 1947. He has further argued that the Civil suit filed by the workman was dismissed in default and the same was not got renewed, therefore, there is no res-judicata against the workman. On the other hand the learned counsel for the management has argued that the workman was appointed on stop gap arrangement and on the joining of regular person the charge was taken over from him. He has further argued that the management has acted in accordance with the term of appointment and as and when the regular person join, there was no need for the workman to continue in the post. He has further argued that the workman was working as Extra Departmental Branch Post Master and as per the law laid down by the Hon'ble Supreme Court in the case of Sub-Divisional Inspector of Post Vaikam & Ors. etc. Vs. Theyyam Joseph etc. reported in 1996 J.T. (2) S.C. 457 the applicant is not a workman and he can not maintain his reference in this Tribunal.

8. I have gone through the contentions of the learned counsel for the parties. It is admitted position that the workman was working as Extra Department Branch Post Master at Rajpur and one Ashok Kumar later on was approved for regular appointment in place of the applicant. It is also admitted case of the parties that no appointment letter was given to the workman. I have also gone through the judgement cited above by the learned counsel for the management in which the Hon'ble Supreme court has held that the EDA are civil servants and do not belong to the category of the workmen and the provisions of the I.D. Act 1947 are not attracted in their case. In view of the above settled law, it is held that the applicant being working as extra departmental branch Post Master is not a workman under the Act 1947 and he can not maintain the present reference, as the appointment of the workman is governed by the Rules in Section III of the Compilation of Swamy's Service Rules for Extra-Departmental Staff in Postal Department. The civil suit filed by the workman was dismissed in default and was not decided on merit, therefore, it will not amount to constructive res-judicata against the workman.

9. In view of the discussions made in the earlier paras it is held that the applicant is not a workman and he can not maintain his reference in this Tribunal. The reference is answered accordingly. Central Govt. be informed.

S.M. GOEL, Presiding Officer

Chandigarh.
26-9-2003

नई दिल्ली, 8 अक्टूबर, 2003

का० आ० 3159.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेतवा रिवर बोर्ड के प्रबंधन के संबद्ध निजीजकों और उनके कर्मचारों

के बीच; अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 125/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-10-2003 को प्राप्त हुआ था।

[सं. एल-42012/102/97-आई. आर. (डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 8th October, 2003

S.O. 3159.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 125/98) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Betwa River Board and their workman, which was received by the Central Government on 8-10-2003.

[No. L-42012/102/97-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE SRI SURESH CHANDER PRESIDING OFFICER

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT SARVODAYA NAGAR, KANPUR, 208005

Industrial disputes No. 125 of 98

BETWEEN—

Shri Ayodhya Prasad
C/o Sri Ajai Sharma
Mahmantri Dainik Vetan Bhogi
Karmachari Sangh,
106/371, Heeraganj
Kanpur.

And

Chief Engineer
Betwa River Board
Nandanpura Colony
Jhansi

AWARD

1. Central Govt. Ministry of Labour, New Delhi, vide its notification No. L-42012/102/97-IR(DU) dated 24-8-1998 has referred the following dispute for adjudication to this Tribunal.

“Whether the action of the Chief Engineer Betwa River Board Nandanpura Colony, Jhansi in demoting their workman Sh. Ayodhya Prasad w.e.f. 29-5-95 is

legal and justified? If not, what relief the workman is entitled to?”

2. The instant case when was taken up for hearing concerned workman himself filed an affidavit before this tribunal stating ther in that he is not willing to prosecute the present case and the statement so made by him without any demur hence the present dispute may be closed.

3. In view of above, the tribunal is left with no option but to hold that the concerned workman is not entitled to any relief pursuant to the reference made to this tribunal in view of affidavit dated 2-9-03 filed by him in the case.

4. Reference is answered accordingly against the concerned workman.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 2003

का० आ० 3160.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गर्बनमेन्ट ऑफ इंडिया प्रेस के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 45/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-10-2003 को प्राप्त हुआ था।

[सं. एल-16012/1/93-आई. आर. (डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 10th October, 2003

S. O. 3160.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 45/94) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Govt. of India Press and their workman, which was received by the Central Government on 10-10-2003.

[No. L-16012/1/93-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHANDIGARH

Case No. ID 45/94

Presiding Officer : Shri S.M. Goel
Randhir Singh Meena C/o
Secretary, Govt. of India Press,
Employees Union,
G-14, Old Press Colony,
Nilokheri.

.....Applicant

Versus

The Manager Govt. of India Press,
Nilokheri

.....Respondent

APPEARANCES :

For the Workman : Shri R. P. Rana
For the Management : Shri D. R. Sharma

AWARD

(Passed on 29-9-03)

1. Central Govt. vide notification No. L-16012/1/93/IR(DU) dated 24th of June 1994 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Govt. of India Press, Nilokheri in terminating the service of Shri Randhir Singh Meena is justified? If not, what relief he is entitled to?"

2. In the claim statement it is pleaded that workman was appointed as labourer on 8-10-1979 and was promoted to the post of Asstt. Binder on 19-10-1981 and he was confirmed employee. The applicant fell ill and he applied every time for leave along with medical certificate. The management without following the proper procedure imposed the penalty of withholding one increment and from this penalty order the applicant came to know that the enquiry officer was appointed against him and no enquiry was held. Again regarding the period from 1-9-1982 to 31-12-1984 enquiry officer T. S. Chawala was appointed and no show cause notice was issued to him nor any enquiry finding was supplied to the workman and the workman was removed from the service w.e.f. 24-8-1985 (AN) and his reasons for illness were not considered. The applicant preferred an appeal dated 19-12-1985 to the appellate authority. No decision on the appeal was taken and later on his appeal was decided in which order period which was not part of the enquiry was also included and his appeal was rejected. Which is in gross violation of principle of natural justice. It is further pleaded that the order of removal from service of the workman is illegal, arbitrary, void and bad as no enquiry was conducted under the rules and no opportunity was given to the workman. The applicant thus prayed that he be reinstated in service declaring the order of removal as bad and void with all benefits including backwages promotion and all other consequential benefits.

3. The management in written statement has pleaded that the leave applications praying for E.O.L. of the workman were not supported with medical certificates except a few of them and he had been sending the leave applications after availing of them. It is further pleaded that the workman was removed from service after serving him the chargesheet and notice was also issued for enquiry

on 8-2-1985. The copy of the enquiry report was supplied to him on 24-8-1985 pertaining to the period from 1-9-1982 to 31-12-1984 along with the order of removal from service. The appeal of the workman was also dismissed on 31-7-1987 and the order was conveyed on 7-8-1987. Therefore, it was prayed by the management that the removal of the workman was legal and justified and the workman was not entitled to any relief.

4. Rejoinder to the written statement also filed reiterating the claim made in the claim statement.

5. In evidence the applicant filed his own affidavit as Ex. W1 and appeared for cross-examination as WW1. He also relied on documents Ex. W2 to W19. In rebuttal the management produced S. K. Verma as MW1 who filed his affidavit Ex. M1 and documents Ex. M2 to M26. In cross-examination it is admitted by the witness of the management that show cause notice was not given to the workman before terminating his services.

6. I have gone through the written arguments submitted by both the parties and have also gone through the entire evidence and record of the case. I also heard the learned counsel for the parties. The learned counsel for the workman has argued that the finding of the enquiry officer was not supplied to the workman before inflicting the punishment and no personal hearing was given as has been admitted by the witness of the management in cross-examination, that no copy of the finding of the enquiry officer was supplied along with the order of removal from service on 24-8-1985 itself. He has further argued that the management and the enquiry officer have violated the principle of natural justice and the workman was greatly prejudiced in taking up his defence during the enquiry and after wards. It is further argued on behalf of the workman that his appeal was also decided by the appellate authority after about two years without affording the opportunity of personal hearing.

7. On the other hand the learned counsel for the management has argued that the workman was given full and proper opportunity during the course of enquiry and the workman was habitual absentee and the enquiry was conducted in accordance with the principle of natural justice. It is also argued that the workman is not entitled to any relief. The learned counsel for the management has also referred to the case law of the Hon'ble Supreme Court in the case of Apparel Export Promotion Council Vs. A.K. Chopra reported in AIR 1999 Supreme Court page 625 in which it has been held by the Hon'ble Supreme Court that interference with disciplinary matters and punishment the court not to normally interfere with either the factual finding regarding guilt or with penalty or punishment imposed by the departmental authorities. In the written arguments it is pleaded that the applicant was served with a notice of enquiry on 8-2-1985 duly appointing Shri T.S. Chawala as enquiry officer and the applicant wilfully admitted

the charges during the course of enquiry. In the written arguments the management has also referred the case law of Ashok Kumar and another reported in 1996 (1) S.C.C. 302 in which the Hon'ble Supreme Court has held that no interference in the punishment is called for after the punishment is imposed after conduction of the departmental enquiry.

8. I have carefully gone through the arguments of the learned counsel for the parties and have also thoroughly examined the entire record of the enquiry and evidence and written arguments filed by the parties. The Statement of Charges has been exhibited as EX. M16 which shows that the applicant was charged for availing of leaves from 1-9-1982 to 31-12-1984 and also remained unauthorisedly absent from 29-4-84 to 24-5-84, 31-5-84 to 27-6-84, 10-8-84 to 25-8-84, 29-8-84 to 15-9-84, 16-10-84 to 20-10-84 and 4-11-1984 to 18-11-1984. Ex. M20 is the order appointment of the enquiry officer vide order dated 8-2-1985. Enquiry report was also submitted which is Ex. M22 in which it has been mentioned that the case was taken up for enquiry on 22-7-1985 and the workman admitted the charges and in view of the admission, made by the applicant the enquiry was concluded and the applicant was held to be guilty of the charges. The claim of the workman is that the management has not proved his guilt in the enquiry and the enquiry was concluded. It is mentioned in the enquiry report Ex. M22 that the enquiry was held at the Govt. of India Press Nilokheri. The hearing in the case was held on 22-7-1985 and Shri Randhir Singh Meena B/Asstt. delinquent Govt. servant admitted the charges in toto. the enquiry officer in the case, therefore decided to conclude the enquiry on 22-7-1985. I have gone through the entire enquiry proceedings. This is one page enquiry and enquiry report which is Ex. M22. I do not find anywhere in the enquiry proceedings that the workman has admitted the charge. It appears that the leave applications which were given by the workman from time to time were treated as his admission. In my opinion it against all principles of natural justice. These applications which has been treated as his admission were his applications for leave and not for making any confessional statement. No show cause notice was also given to the workman before imposing a penalty of termination against him and then the appeal was disposed off after a long time and without affording any personal hearing. This act of the management gravely prejudiced the defence of the workman. The applications which have been made the basis of the charge are some of those applications which by implications were accepted by the management because the workman was allowed to join the duty after the period of those leave applications and some of which were supported with medical certificate as has been admitted by the management's witness. I am thus of the opinion that the enquiry conducted by the management has to be vitiated for infringing all canons of

natural justice. The workman did not admit the charge yet in the enquiry it was held that he admitted the charged. The workman was also not given any personal hearing nor any show cause notice was given to the workman before imposition of the penalty of termination and thus prejudicing gravely the defence of the workman. The management has also not sought to prove the enquiry in the Tribunal itself. I am therefore, of the considered opinion that the workman is entitled to be reinstated with continuity of service, and set aside the order Dt. 24-8-1985. However, in the circumstances of the case as referred above, with 50% of the backwages. The management is directed to reinstate the workman in service within one month from the date of publication of the award and also pay him all the arrears of his backwages as directed within one month. Central Govt. be informed, for publication.

Chandigarh,

29-9-2003

S.M. GOEL, Presiding Officer

नई दिल्ली, 10 अक्टूबर, 2003

का. आ. 3161.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार/औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 1/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-10-2003 को प्राप्त हुआ था।

[सं. एल-40012/261/2001-आई. आर (डीयू)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 10th October, 2003

S. O. 3161.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 1/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Post and their workman, which was received by the Central Government on 10-10-2003.

[No. L-40012/261/2001-IR(DU)]

B. M. DAVID, Under Secy.

ANNEXURE

**BEFORE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT CHENNAI**

Monday, the 6th October, 2003

PRESENT : K. Jayaraman,

Presiding Officer

INDUSTRIAL DISPUTE NO. 1/2002

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10

of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Assistant Superintendent of Post Offices, Madurai and their workman Sri R. Pounraj)

BETWEEN

Sri R. Pounraj : I Party/Workman

AND

The Assistant Superintendent : II Party/Management
of Post Offices,
City South Sub Division,
Madurai.

APPEARANCES:

For the Workman : M/s. R. Malaichamy
V. Balakrishnan &
M. Vijayalakshmi, Advocates

For the Management : Sri K. Rajendran, ACGSC

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-40012/261/2001-IR(DU) dated 19-12-2001 has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the Assistant Superintendent of Post Office, Postal Department, Madurai in dismissing the service of Shri R. Pounraj from the post of Extra Departmental Packer is justified and legal? If not, what relief the concerned employee is entitled to?”

2. The matter was taken up on the file of this Tribunal as I.D. No. 1/2002 and notices were issued to both sides. Both sides have entered appearance through their advocates and filed their respective Claim Statement and Counter Statement.

3. When the matter was taken up for enquiry on 16-07-2003, after adjourning this case for many number of hearings, both sides have not turned up. Again, when the matter was taken up finally for enquiry on 22-09-2003 after adjourning the case thrice, there was no representation for the II Party/Management. The I Party advocate alone present. Hence, this Tribunal comes to the conclusion that the II Party/Management is not interested in further prosecution of this case. Therefore, I find that the action of the Assistant Superintendent of Post Offices, Postal Department, Madurai in dismissing the service of Sri R. Pounraj, the concerned workman in this industrial dispute, from the post of Extra Departmental Packer is not legal and justified. Hence, the concerned workman Sri R. Pounraj is entitled to the relief as prayed for in the Claim Statement. Ordered accordingly.

4. Thus, the reference is answered accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 6th October, 2003.)

K. JAYARAMAN, Presiding Officer